United States Court of Appeals

for the Second Circuit

MOTION TO DISMISS

75-1420

B
P/S

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

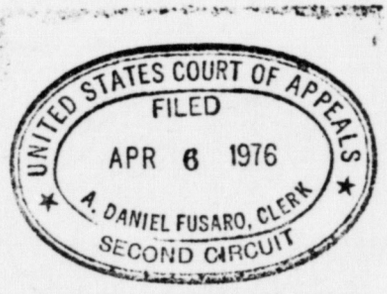
SAMUEL SNOW,

Appellant.

Docket No.

75-CR-82

RECORD ON APPEAL - VOLUME II



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to your rule?

THE COURT: You don't need to take exceptions. You haven't had to for 45 years.

Is there a defense?

MR. FISHER: May we have a minute to talk?

THE COURT: Sure.

MR. FISHER: We are ready.

THE COURT: All right.

(Jury returns to Courtroom).

THE COURT: Proceed.

MR. FISHER: Glen Snow.

GLEN A. SNOW, Defendant, having been called as a witness in his own behalf, was duly sworn according to law and testified as follows:

DIRECT EXAMINATION

BY MR. FISHER:

Q Glen, you are a defendant in this action?

A Yes, I am.

Q How old are you?

A Twenty-five, sir.

Q And where do you live?

A Paul Smith, New York.

Q Where is that?

A It is outside of Saranac Lake. It is the college I go to.

THE COURT: Keep your voice up so that everybody can hear you.

THE WITNESS: Yes, sir.

Q And do you know the man sitting over on the right of Mr. Hatch?

A Yes, I do.

Q Who is he?

A Samuel Snow, my cousin.

Q And how old are you?

A Twenty-five.

Q How old is your cousin?

A I think he is 23. I am not really sure.

Q I am directing your attention to April of 1975. Where did you live during the month of April 1975?

A I lived in a trailer on Main Street in Ausable Forks New York.

Q And who else lived at that address with you at that time?

A My cousin, Sam Snow.

Q This man here?

A Yes, sir.

Q Who else lived in the trailer at that time?

A Just the two of us, sir.

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Q And was there a telephone at that trailer?
A Yes, there was.
Q And in whose name was that telephone?
A It was in my father's name.
Q What is his name?
A James H. Snow.
Q Now, do you know Jules Votraw?
A Yes, I do.
Q And how long have you known him?
A Well, for quite a while. He lived on the next street over from me. It is right in back of my house where I was brought up.
Q Now, at the time, April '75, were you in the service of the United States Government?
A Yes, I was.
Q And in what capacity?
A I was a sergeant. I worked at Plattsburgh Air Force Base at base billeting. It was a hotel.
Q And how far is the trailer that you live in from this place where you were stationed?
A Approximately 25 miles.
Q All right. Now, I am directing your attention to the date of April 4th, 1975. Do you recall that day?
A Yes, I do.
Q And is the Jules Votraw that you say you know, is

that the person that was a witness here yesterday?

A Yes, he was.

Q This morning, I mean.

A Right.

Q Now, did you have occasion to see Jules Votraw on April 4th, 1975?

A Yes, I did.

Q Will you tell the jury where you first saw Jules on that date?

A I think I was in my driveway in my house and Jules came up to me and started talking to me.

Q All right. Will you tell the jury what the conversation was at that time between you and Jules Votraw?

A Jules told me he had a cousin up here from college and that he was going to bring him to the bar that night and he wanted to introduce him to me and the guy was talking a lot about drugs, all different kinds of drugs, and he says, "If he says anything to you, just go along with him." He says, "It will make me look good. It will make him satisfied."

Q Did you agree to this at that time?

A Yes, I saw no sense in it, you know.

Q Now, thereafter did you have occasion to go to this Menconi's Restaurant?

A Yes, I do. It is a regular place I go to.

Q And where is it?

A It is on Main Street in Ausable Forks, New York.

Q Distancewise, how far is it from your trailer, where it was?

A Approximately, no more than a quarter-mile.

Q All right. And did you go to this restaurant that night?

A Yes, I did.

Q Did you go there alone?

A Yes, I did.

Q Approximately what time did you arrive there?

A The approximate time, I couldn't really say. I wasn't really checking the clock. I would say somewheres around 8:30 to 9 o'clock.

Q And when you arrived there, did you go inside the place?

A Yes, I did.

Q And when you went inside the place, would you tell us what you did and where you proceeded to?

A When I first went in, I went to the bar, ordered myself a drink, and I was just walking around the place and I noticed, after a while I noticed Jules Votraw and his cousin sitting at the end of the room towards the door.

Q What were they sitting at, the bar or a table?

A They were sitting at a table facing the crowd.
Q And had you known this person that was with him, this cousin, prior to your going into the restaurant that night?
A No, I did not.
Q To your knowledge, had you ever seen the man before that evening?
A No, not that I can recall. I don't think I have ever met him before.
Q Did you at some point go over to the table where this Jules Votraw was sitting with this man?
A Yes, I did. I went over and sat down.
Q And when you sat down there, was there anybody else there except these two people?
A No, there was me and Jules and his cousin.
Q Now, roughly, how long had you been there before you sat at the table?
A Not long. I couldn't say exactly what time it was, but it wasn't very long.
Q Were you drinking that night?
A Yes.
Q And at the time you sat down at the table, had you been drinking something?
A Yes, I had.
Q What were you drinking?

A I think I was drinking beer because they had beer at the table and I was drinking beer with them.

Q And did somebody, in effect, invite you to sit down?

A Well, Jule was sitting over there with his cousin and he sort of motioned toward me, so I went over and sat down.

Q And when you sat down, was there a conversation between you and either of these two men?

A Yes, there was.

Q Could you tell the jury what the conversation was?

A Well, Jule introduced me to the special agent as his cousin, and then we just went on. Jules started talking to other people and his cousin asked me, he says, "I hear you are going to New York with Jule next weekend." And I said, "Yes, I am." And he asked me, he says, "Well, I hear you know a lot of people down there." I said, "Yes, I know quite a few people." He says, "I hear you can get some coke." And I said, "Well, you are talking to the wrong person. You will have to talk to Jules." I said, "I'm not into that. I don't do any of that." And he said he would rather not talk to Jules because through the family grapevine he had heard that Jule had been in some trouble and he didn't want to take any chance of anybody connecting the

two together. I told him I was sorry, he would still have to talk to Jule about the whole thing.

Q Now, was there any conversation at that time with reference to the price of cocaine?

A No, there was not.

Q Was there any conversation at that time with reference to cutting cocaine?

A No, there was not.

Q Other than what you have told us so far, what other conversation was there between you and this Paul?

A Well, after I told him no, the conversation toward drugs just sort of went down and it was just a friendly conversation. I sat there for a while, and I think one of them went and got a pitcher of beer and we sat there and had a few beers and I got up and left the table.

Q All right. Now, after you left the table, will you tell the jury where did you go to?

A I think I walked around the room for a while, then I think I left the bar.

Q All right. Now, at any time that evening at that restaurant, did you have occasion to see your cousin, Sam, in the tavern or the restaurant?

A Later on that night, I assume, not while I was there. The first time I did not see him in there.

Q Now, at any time when you were there, did you see Sam talking to either Jules Votraw or this undercover agent?

A Not that I can recall.

Q Did you, that evening at all, participate in any conversation at that table, in a conversation which included the presence of Mangor, Votraw and your cousin, Sam?

A No, I did not.

Q Now, what time did you leave the restaurant that night finally?

A Finally, I really couldn't say.

Q All right. Did you leave alone?

A I might have or I might not have. I really don't know.

Q All right. Now, when did you next have occasion to talk to Jules Votraw or this Paul Mangor?

A Well, around the first of the week I received a call from Paul and he was asking me for the same thing, if I would still be interested in getting him some coke in New York, and he told me he would make it worth my while to do it, and I told him no, that I wasn't going to do it.

Q And what happened after you told him that? What was said next, if anything?

A So a short time later, I can't remember if it was --

Q Just a minute. Was that the end of the telephone conversation?

A Yes, I think it was. He just asked me to do it and I told him no. Well, he asked me if I was going to New York and I said yes, I am, and he asked me to pick him up some coke and I told him no, and that was the end of the conversation.

Q All right. And when did that conversation take place?

A It was around the first of the following week.

Q Do you know what day of the week it was?

A No, I do not.

Q Now, after that conversation took place, what happened next?

A I received a call from Jules Votraw.

Q How long after the conversation which you just testified to did you receive this phone call from Jules Votraw?

A I'm not sure. I think it was the following day.

Q And you had a conversation with Jules on the telephone?

A Yes, I did.

Q Where were you talking from?

A I was at my home.

Q Do you have any recollection as to what time of the day this took place?

A I think it was in the evening because I worked that day. I remember working that day.

Q And did you know Jules Votraw's voice?

A Oh, yes, we have been friends for quite a while. We have gone to a couple places in Plattsburgh together a few times.

Q So that the person whose voice was on the telephone you knew to be Jules Votraw?

A Oh, yes, I was familiar with his voice.

Q And what was the conversation when he called you at your trailer home that night?

A He said that he needed $200 and he asked me if I would -- told me his cousin was going to call me and ask me if I could get him some coke and he wanted me to just go along with him, tell him I needed $200, and at first I said, "No, I'm not going to do it." And he went into this thing where "you owe me favors", and at first I said, "You know you are putting me on the spot." And he went on with, "You owe me favors, you owe me favors", so that I said, "Okay, I'll go along with that. I'll get the $200, but then once I see you, I'm giving you the $200 but I don't want nothing to do

with you or your cousin or this thing again."

Q What happened after you told him that?

A I received a call from his cousin.

Q Was there any further conversation between you and Jules Votraw at that time?

A Yes, I told him -- I think I told him I would call him back. So then I received a call again from his cousin.

Q From this Paul?

A Right, and I told him that I could get him what he wanted but I was $200 short and he would have to give me the $200.

Q Let me interrupt you a minute. When you received this phone call, is that one of the phone calls that you heard played here?

A No, it was not.

Q I mean the second phone call about the $200 short.

A You mean the one where Jules said he needed $200?

Q No.

A Oh, I need the two?

Q Yes.

A Yes, I did hear the conversation.

Q Now, you heard the conversation wherein this Paul, we'll call him Paul, testified that he was calling, or the tape indicated he was calling from Burlington?

A Yes.
Q Was that your voice on the telephone?
A Yes, it was.
Q And is what was recorded on the telephone a true and accurate recording of the conversation between you and this Paul at that time?
A Yes, it was.
Q And after that conversation, did there come a time in sequence when he called you a couple hours later?
A Pardon me?
Q Did he call you a couple hours later? In the cassette or the recording, it indicated that he was then in Plattsburgh.
A Yes, he did.
Q And did you recall listening to the portion of the recording which indicated that he was there, that you were going to gas up your car and come up?
A Yes, I did.
Q Was that your voice on that recording?
A Yes, it was.
Q And did you, as a result of that conversation, proceed up to Plattsburgh?
A Yes, I did.
Q Now, did there come a time when you went in the parking lot of the Howard Johnson's Restaurant in

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Plattsburgh?

A Yes, I did.

Q And when you went there, did you go there alone?

A Yes, I did go there alone.

Q And who was there when you got to the parking lot?

A I met Jules' cousin, Paul.

Q Was anybody else there besides this Paul?

A No, there wasn't.

Q Approximately what time did you arrive at this parking lot?

A The approximate time, I have no idea.

Q And where did you go in the parking lot?

A Just right in the parking lot, towards -- about in the middle between the road and the parking lot.

Q Did you get in any vehicle or did you stay on the paved portion?

A I got in Paul's car.

Q And when you got in the car with him, did you have a conversation with him?

A Yes, we did. We had a little argument.

Q Will you tell the Court what he said to you and what you said to him as best you can recall, the exact words?

A Well, he brought out the $200 and he started -- went to hand it to me. First he says, "You are going

to have to give me the coke right out in the open." He says, "I'm not taking any chances on getting ripped off and everything." And I told him, I said, "You're asking me to do too much." I said, "I'm taking a chance now just doing this." I said, "You know, to you, it is only possession. To me it is the rest of my life, and that means a lot to me. There is no way that I'll do anything like that."

Q What did he say to you?

A Well, he was a little upset over the whole thing. He got a little mad, and that was about it.

Q Did he give you the $200?

A Yes, he did.

Q And this was on what date?

A Pardon me?

Q What was the date of that conversation?

A I think it was the 8th of April, I think. I'm really not certain.

Q Was this the date of these several conversations on the telephone?

A Yes, it was.

Q Did there come a time after this meeting there that you returned to your trailer home in Ausable Forks?

A Yes, I did.

Q And did you receive another phone call from this

Paul in reference to somebody's phone number?

A Right, he called me and he wanted Jules' number.

Q And where was Jules at the time?

A I was under the assumption he was in Brewster, New York.

Q And what phone number did you give this Paul when you gave him the phone number?

A I started to give the number, then I think he remembered what the rest of the number was.

Q And thereafter when did you next see this Paul?

A The next time I saw him?

Q Yes, or hear from him.

A Well, he called me several times after I -- well, he called me when I got back from New York.

Q Let me interrupt you first. Do I understand that this conversation took place after you got back from the parking lot, he called you up and he asked you for Jules' phone number?

A Yes.

Q Did you hear the recording on the recorder of that conversation?

A Yes, I did.

Q Was that your voice?

A Yes, it was.

Q Was that a true and accurate recording of the con-

versation on the telephone?

A Yes, it was.

Q I show you Government's Exhibit 7, 8 and 9 in evidence, and I ask if you can recognize what they are.

A Yes, I do.

Q And would you tell the jury what they are?

A They are an application for a loan with the National Commercial Bank and Trust Company.

Q And is this a copy of that which you filled out at the bank?

A Yes, it is.

Q And is that your signature, "borrower"?

A Yes, it is.

Q And does it state on there the purpose of the proceeds of the loan to be used for?

A Stereo equipment.

Q Now, when did you make this application to the bank?

A It was around the 8th or the 9th of April.

Q And you heard the testimony of Mr. Lawrence from the bank there?

A Yes, I did.

Q And do you agree, substantially, with his testimony in reference to your transaction with him?

A Yes, I do.

Q And had you done business with this bank prior to the loan application of April 9th, 1975?

A I have been doing business with National Commercial Bank for a few years.

Q Now, will you tell the Court, what did you do with the proceeds of this loan indicated by this exhibit in evidence?

A Two hundred of it I gave to a Mr. Harry Peckum of the Edison Electronics for a stereo that he was going to put in my car. I had to give the money in advance because he was buying it wholesale for me.

Q And how long prior to the date of this loan had you made this arrangement with this person in reference to the stereo?

A For some time.

Q Well, can you give the jury an idea of how long?

A At least a month or a month and a half.

Q And how much did you give him?

A I gave him approximately $200 cash.

Q And the rest of this money, would you tell the jury what you did with it?

A I had $400 left and I put it in the Federal Credit Union at Plattsburgh Air Force Base.

Q And ultimately it was used for what purpose?

A Well, I paid off a few debts with it. Well, most of

the debts I paid with it, I paid the credit union some money, plus I was back on a car payment. I had paid up my car payment and a few other bills that I had taken care of.

Q All right. Now, this exhibit being dated April 9th, did there come a time on April -- do you know what day of the week April 9th was?

A I imagine it was around a Thursday.

Q Now, did there come a time when you received a phone call from Brewster before going to New York?

A Earlier in the week, yes.

Q All right. When did you receive this phone call from Brewster?

A Right after the time that I received a call from Jules Votraw's cousin.

Q And what was the nature of that phone call?

A Asking me to get Jules the $200.

Q And was it as a result of that that you went to this parking lot?

A Yes, it was.

Q All right. Now, did you have occasion to call this Jules Votraw at Brewster, New York?

A Yes, I did.

Q And when did you call him?

A I think it was after that I met with Paul in the

parking lot.

Q Would you tell the Court what the conversation was when you called Jules at this motel in Brewster?

A I told him I had the $200 for him and that I would be down on Thursday night, I was taking Friday off from work, and at the same time I told him that my cousin, Sam, was going to come with us to spend the weekend and party with us.

Q Had there been any conversation between you and this Jules Votraw prior to this phone call to Brewster in reference to Sam, your cousin, going with you?

A No, there hadn't. There had never been a conversation about Sam.

Q So this is the first discussion you had with Jules Votraw in reference to Sam going with you and he to New York?

A Yes, it was.

Q And when you told him that, what did he tell you?

A He just said okay, that he would see me on Thursday night, told me if he wasn't there by the time I got there, just to wait for him.

Q And what time did you and Sam arrive at the motel in Brewster?

A Approximately 4:30, 5 o'clock.

Q In the afternoon?

A Yes, sir.

Q And could you tell us where Brewster is in relation to New York City, the heart of New York?

A It's approximately -- I think it's north of New York. It is past White Plains. It is towards the Taconic State Parkway.

Q And did there come a time when you and Sam arrived at the motel? I think I just asked you that. You arrived at that motel around 4:30?

A Yes, sir.

Q And when you arrived there, did you go in the building?

A Yes, we did.

Q And who was there?

A There was, Jules was there and somebody else. I don't know who it was.

Q Did that person remain there?

A I'm not positive.

Q Did there come a time when you had a conversation with Jules in reference to going to New York?

A Well, when I got there, we didn't stay very long. Jules was already ready, and I just said, "Are you ready to go?", and he was eating. He put down his plate and finished eating and we just got in the car

and left.

Q Now, was there any conversation at this time while you were at the motel and before you were in the car to go to New York in reference to the subject matter of the $200?

A The $200 didn't come up until after we were on the way to New York.

Q While you were on the way to New York, who was driving the car?

A I was driving.

Q And where was Jules?

A Jules was in the passenger seat in front.

Q And where was your cousin?

A Sam was in the back seat.

Q And how long had you been away from this motel in Brewster when the subject of the $200 came up?

A Not long. I think we got on the expressway and I took the $200 out and I gave it to him and I told him to tell his cousin to leave me alone from there on, I didn't want to get involved in that anymore.

Q What did he say to that?

A He said if I had anymore dealings with his cousin, if his cousin called me or anything else, I had any problem with him, just to tell his cousin to get in touch with Jule.

Q Did you have any conversation about who this cousin was while you were in the car on the way to New York?

A Yes, we did have a conversation about him.

Q Who is "we"?

A Me and Jule.

Q And will you tell the Court what you said and what Jules Votraw said in the car?

A I told him I didn't like his cousin and that I didn't trust him and that I thought there was something really wrong with him. And Jules says that the guy was definitely not cool and that he thought the guy was an undercover agent and that it wasn't really his cousin.

Q He told you that in the car?

A He told me it wasn't his cousin.

Q In the car he told you that?

A Yes, he did.

Q Now, where did you three people proceed to in the car?

A To New York City.

Q And you heard the testimony of Mr. Votraw in reference to going to this apartment and of one John Simons?

A Yes, I did.

Q All right. Did you go to this apartment?

A Yes, we did.
Q Did your cousin also go there?
A Yes, he did.
Q Sam?
A Yes.
Q Could you give the jury an indication as to what time you arrived at the Simon apartment in New York?
A I would say approximately around 9 o'clock, eight, 9 o'clock.
Q All right. And when you arrived at the apartment, the three of you arrived at the apartment, who was there in addition to the three of you?
A There was John Simons' mother and there was John Simons and Neil Cohen. We met John Simons and Neil Cohen outside, then we went into the apartment.
Q Now, how long did you remain at the Simons' apartment before you left to go anywhere else?
A We were there approximately an hour. We partied, we listened to some music and drank some beer and some wine and got a little bit on the tipsy side for a while.
Q All right. Now, was Neil Cohen there?
A Yes, he was.
Q And he is not an occupant or a resident of that particular apartment, is he?

A No, he is not.

Q And had you known him prior to April 10th, 1975?

A Yes, I have; I have known him for approximately three years.

Q And how long had you known John Simons prior to April 10th, '75?

A Approximately the same time.

Q And had you ever been in their presence and in the presence of Jules Votraw at the same time before April 10th, 1975?

A Not that I can recall.

Q I mean, are these men that were living in New York, people that visited Ausable Forks?

A Yes, they came up quite often. They have been in the area for three to four years. They were friends of just about everybody.

Q Are they people that were native in any way?

A John Simons used to go to school in Ausable.

Q What about Neil Cohen?

A Neil Cohen, no, he just came up to visit. He is a friend of John's that John had brought up.

Q And what if anything did you observe in reference to this Neil Cohen and Jules Votraw while you people were in the Simon apartment and before you left to go somewhere else?

A They had a little conversation off to the side by themselves.

Q And did there come a time when Neil Cohen left the apartment?

A Yes, he did.

Q And how long was he gone?

A Approximately 15 minutes.

Q And were you there when he returned?

A Yes, I was.

Q Would you tell the jury what you observed when he returned?

A Well, he came in and he handed Jule a little piece of tinfoil and Jule opened it up and looked at it and just gave a little taste, and that was it.

Q Did you observer anything inreference to money?

A I really didn't notice nothing, you know, about money.

THE COURT: Did you taste the contents of it?

THE WITNESS: No, I did not.

THE COURT: Did Sam?

THE WITNESS: No, he did not.

MR. FISHER: I started to talk. I didn't hear that, Your Honor.

THE COURT: I asked him if he tasted

it and if Sam tasted it.

BY MR. FISHER:

Q Did anybody else taste this in your presence other than Jules?

A No.

THE COURT: He only went out once, not three times?

THE WITNESS: As far as I can recall, he only went out once, sir.

BY MR. FISHER:

Q This was a single tinfoil thing?

A One piece of tinfoil, yes, small piece.

Q And whom did you see --

THE COURT: Did you know what it was?

THE WITNESS: At the time, sir?

THE COURT: Yes.

THE WITNESS: No, I did not.

THE COURT: What did you think it was?

THE WITNESS: I had no idea, sir. I didn't really see what they were doing.

THE COURT: Bubble gum?

MR. FISHER: Pardon me?

THE COURT: I asked if he thought it was gum.

MR. FISHER: Did you answer the Judge?

THE WITNESS: No, sir, I didn't think it was gum. I figured it had something to do with narcotics.

BY MR. FISHER:

Q But you, yourself, did you observe what was in the tinfoil?

A I didn't look in the tinfoil, no.

Q And after you observed Jules do what he did about testing it, what happened next or what did you see happen next?

A Nothing after that.

Q Did you see where he put it?

A I think he put it in his pocket. I really wasn't observing it that close. I was partying with everybody.

Q Now, while this was going on, how far were you from Jules and this Neil Cohen?

A They were in the -- I think they were in the doorway in the kitchen and I was in the living room and bedroom watching T.V. at the time.

Q How far away from these two people were you while you observed Jules sampling this stuff in the tinfoil?

A I would say approximate distance from me to you.

Q And after that, what did you observe or what happened next?

A Well, we just sat there a while and we drank some more, then we just got up and started going to different parties.

Q Now, did you go to a party somewhere across the street?

A Yes, we did.

Q And was this something that you were aware of at the time that you went down to New York?

A That was the whole purpose in going to New York was to party.

Q And this party across the street, how long did you remain at that?

A Approximately an hour.

Q And from there, where did you go?

A We went to another party.

Q How long did you remain there?

A I couldn't really say. By that time I was sort of feeling kind of loose.

Q Then did there come a time when you left this third party and went to your car?

A Yes, there did.

Q When you went to your car, where did you proceed to?

A We went back to Brewster.
Q And did you go to this motel in Brewster?
A Yes, we did.
Q And what happened when you arrived at the motel?
A We went to bed.
Q And what is the first thing you recall the next morning?
A The first thing I recall, the first thing I recall is Jules standing there talking to somebody. I was in bed.
Q And do you recall --
A I really didn't pay much attention to it because I figured it was one of the people that he is working with.
Q Did you have any conversation with this person that was in the room at that time?
A I think I was introduced to him but I was, you know, I was a little hung over from the night before and plus I was really sleepy. I stayed out late.
Q Do you recall any conversation with this person?
A Not really recall, no.
Q Do you recall any conversation with Jules Votraw in reference to this person after he left?
A No, not really. He said he was going to work. I told him I was going to be leaving in a few minutes

and I started to get up to get ready to go and he told me that I could stay for a while if I wanted to, you know, sleep for a while and I said I would rather get back home.

Q Did you then leave to go home?

A Yes, I did.

Q Did you hear the testimony of Jules Votraw in reference to giving some coke to a person early in the morning and that he got this coke out of your pocket?

A Yes, I did hear that.

Q Is that true?

A No, it is not.

Q Did you ever have any of this coke which this man testified as to observing at this apartment?

A No, I did not.

Q Did you have any possession of any coke that weekend at all?

A No, I did not.

Q You heard the testimony of Mr. Votraw in reference to cutting coke at the Simon apartment?

A Yes, I did hear it.

Q Is that true?

A No, it was not.

Q Did you hear the testimony of Mr. Votraw with

reference to stating that he had a conversation with you and your cousin sometime prior to April 4th, 1975 in reference to the three of you going to New York to buy coke?

A I remember a conversation that he had with me that he wanted -- said he wanted to go to New York to party.

Q Was there any conversation with reference to coke?

A No, there was not.

Q Did you hear his testimony today in reference to coke?

A Yes.

Q Was that true?

A No, it was not true.

Q Was the conversation in reference to you and Sam and he, the three of you, going to New York that way before you had met this agent, true?

A No, it is not true.

Q Is it your testimony that the only agreement you had to go to New York was with Jules Votraw?

A Yes, it was.

Q Had you ever purchased any narcotic drugs from Jules Votraw?

A Yes, I have.

Q Will you tell the Court when you purchased them?

A He used to sell me marijuana ounces.
Q And this marijuana that he sold you, what would you do with it?
A Smoke it.
Q Did you ever purchase any from him for sale to anybody else?
A No, I have not.
Q And with what frequency in the month of April or March and April of 1975 did you purchase marijuana from Jules Votraw?
A Could you repeat that?
Q How frequently did you purchase it in March and April?
A Maybe a couple times a month.
Q And what would you pay him for this when you purchased it?
A I would pay him cash, you know, whatever he wanted for it.
Q What was the going rate?
A He usually had pretty good marijuana, so I would pay him about $40 an ounce.
Q How much?
A About $40 an ounce.
Q And this was how often a month?
A Maybe once or twice a month.

Q And were you aware of the fact that he had been arrested on two occasions?

A I was aware that he was arrested on one occasion.

Q And was that the occasion which he told you that he agreed to cooperate with the authorities?

A No, it was not.

Q The one about coming over the border?

A That was the one he said he had been arrested for conspiring to distribute. Not to distribute, to bring drugs across the border.

Q Now, have you ever been arrested in your life other than in reference to this matter here that you are on trial on today?

A Just one other time.

Q What was that for?

A We went to a concert, me and a bunch of guys and we had some beer with us, and the sign said no beer allowed inside the classroom and we brought it in anyway and I got caught with a can of beer.

Q You got what?

A I got caught with some beer.

Q You got what?

A A guy grabbed me because I had beer.

Q And other than that, have you ever been arrested before?

A I have never been in trouble before.

Q Ever been arrested before?

A No, I have not.

Q Never been convicted of any crime?

A No, I have not.

Q Did you ever make any agreement with your cousin, Samuel Snow, in reference to distributing cocaine?

A No, we never made an agreement.

Q Did you ever have any conversations with your cousin, Samuel Snow, in reference to acquiring coke in New York City on April 10th, 1975?

A No, we did not.

Q Did you ever have any understanding of any kind with him in reference to coke from New York City?

A No, we did not.

MR. FISHER: I have nothing further.

THE COURT: Did you have any understanding with anyone else to get coke in New York City?

THE WITNESS: No, I did not, sir.

THE COURT: What did you say to your cousin here? What did you say to Mangor when he said he wanted to buy some coke?

THE WITNESS: In the barroom?

THE COURT: Any place, any time. What did you say to him?

THE WITNESS: Well, when he first approached me in the barroom about it, I told him he would have to talk to Jules about it, that I wasn't into that sort of thing.

THE COURT: The next time what did you say?

THE WITNESS: The next time I was approached was on the phone call and I told him no.

THE COURT: You always said no?

THE WITNESS: Yes, sir, except not always, not except for the time when he called me and I told him yes, I would do it but I needed $200.

CROSS-EXAMINATION

BY MR. O'SULLIVAN:

Q Mr. Snow, did you meet Jules Votraw on April 4th, 1975?

A Yes, I did.

Q Where did you meet him?

A The first time I met him was in my -- I think it was either in my driveway or it was on the walk in front of my house.

Q And you had a conversation with him?

A Yes, I did.

Q Could you tell us what that conversation was?
A He told me he had a cousin that was up here from school and that he was going to introduce me to him that night, his cousin had been talking a lot about drugs and that if he mentioned anything to me about it, just to go along with him, and that way he would be impressed with Jule and vice versa.
Q What did that mean to you, go along with him?
A Well, I don't think Jule really wanted me to say that much, just if he started in on mentioning drugs, just to go along with him about the whole thing.
Q Did he say he was a Federal agent?
A At that time, no.
Q Well, did he say he was going to sell this person some drugs?
A No, he did not.
Q Well, what did that mean when he said to you to go along with what he says?
A What did that mean to me?
Q Yes.
A Well, by what I was thinking, that maybe Jule must have -- you know, if this guy started mentioning drugs to me, just to sort of pass it off, not to really -- you know, just to listen to him if he

says anything, just refer him back to Jule.

THE COURT: How far did you go in school?

THE WITNESS: I went two and a half years of college, sir.

THE COURT: What college?

THE WITNESS: I went to Clinton Community College in Plattsburgh; now I'm going to Paul Smith College.

BY MR. O'SULLIVAN:

Q All right. It is your testimony now that Jules Votraw comes to you and says, I want you to talk to this cousin of mine and I want you to go along with everything he says?

A He came to me and he said to me that he was going to introduce me to this cousin of his that had come home.

Q He asked you to go along with everything his cousin says?

A More or less just to listen to him, just to listen. If the guy starts talking about drugs, just to listen.

Q Did he say that? Jules said that if he starts talking about drugs --

A No, he said just to sort of go along with him.

Q What did he say?
A Just to go along with him.
Q What did that mean to you?
A It meant just listen to him.
Q So is it your testimony Jules Votraw comes to see you on April 4th and he says, my cousin is in town. I want you to come to Menconi's and meet him and go along with whatever he says, is that the testimony?
A Yes, it is.
Q And that meant to you what, go along with whatever he says? Suppose he said to stand on the table?
A Just listen to what the guy had to say. He said the guy is talking a lot about drugs, just to listen to it.
Q Mr. Votraw doesn't give you any indication what this is all about?
A Not at the time, no.
Q And you agreed to do that?
A I really didn't meet the guy. Yes, I agreed to listen to him. Why shouldn't I? Jules is a friend of mine.
Q Without knowing the purpose of the meeting at all, you agreed to go there and go along with anything this person says who you don't even know?

A There was nothing really said.

Q And in fact, you did go to the restaurant and you met Jules and his cousin?

A Yes, I did.

Q And you sat down and you had a conversation?

A Yes, I did.

Q What was said there?

A Well, first when I first got to the table I was introduced to his cousin and he says, "I hear you and Jule are going to New York next weekend." And I said, "Yes, we are." And then he started talking about coke. He asked me if I would get him some coke. I told him no, that he would have to talk to Jule about it.

Q I thought you just told me that you were to go along with whatever he says?

A I said I would.

Q You are not going along with what he says.

THE COURT: Let's not argue with the witness. Ask questions.

Q What was that conversation?

A In the bar?

Q In the bar.

A I sat down at the table. I was introduced to Jules' cousin. He was introduced to me as Paul. We sat

down and we started talking. He says, "I hear you are going to New York next weekend with Jule." I said, "Yes, I am." He asked me if I would buy him some coke. I said, "No, you have to talk to Jule on that. That is Jule's department, not mine. I am not into that sort of thing."

Q What did that mean, that is Jule's department, not yours? Did you have some other department?

A No, I do not.

Q Did the agent ask you to -- did he ask you the price of cocaine?

A No, he did not.

Q And you didn't tell him anything about the cutting substance?

A No, I did not. We didn't talk about it that long.

Q And didn't you agree to sell him a half-ounce of cocaine?

A No, I did not.

Q Didn't the agent show you some money with respect to anything when you were sitting there talking to him?

A Not that I recall. He might have pulled out some money.

Q This is Government Exhibit 6 in evidence, the phone conversation that you had with Agent Mangor.

A Yes.
Q You testified it was true and accurate?
A Yes, sir.
Q Well, the first phone conversation on April 9th is where Agent Mangor calls Menconi's Restaurant. His testimony would be that you left your phone number there. Did you leave your phone number with someone at Menconi's Restaurant for Agent Mangor or for this person, Paul, to call you somewhere?
A I probably could have. The bartender happens to be a very, very close friend of mine and he knew where I was that night.
Q Why did you leave your phone number there for Paul?
A I didn't necessarily leave it there for Paul. I could have. That was some time ago.
Q As I read this conversation, "Neither of them are here but Glen said to call this number."
A Well, first of all I received a call from Paul which I told him no. Then I received a call from Jules asking me to pick him up the $200. I told him I would do it.
Q You received a phone call from Jules?
A Right.
Q When was that?
A It was -- I think it was the following day. It was

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either -- it might have been the same day or it was the following day from the time I heard from Paul, Jule's cousin.

Q What is the conversation on that date?

A On what date?

Q The phone conversation you got from Jules on the next day.

A He asked me if I would do him a favor and go along with his cousin, tell him that I could get him the stuff so he could get $200.

Q Who could get the $200?

A Jules said he needed $200.

Q And he wanted you to go to Agent Mangor and -- wanted you to get Paul and ask him for $200?

A No, he said that he would get in touch with Paul.

Q Is it your testimony now that Jules called you up and tells you he needs $200?

A Yes, it is.

Q What did he say, what is the conversation?

A Well, he called me up and he asked me to -- he told me his cousin would be getting in touch with me and that to tell him that I would bring the stuff and that I needed $200, and at first I said no, then he started in with, "You owe me this, you owe me that." I said, "Okay, I'll do it."

Q Then you received a phone call from Agent Mangor or from the person you believed to be Paul?

A Yes.

Q All right. Now, what is your father's home phone number?

A 647-8242.

Q 66?

A Yes, sir.

Q When you heard the phone conversation that Agent Mangor has with that person at Menconi's, that is the number he gives him, right?

A Yes, sir.

Q Your father's number?

A Yes, sir.

Q And this Paul contacts you later that same day at that number, is that correct?

A Yes, sir.

Q And he says to you, "So what's happening?", and you say, "Ah, didn't he tell you?" What does that mean? Who were you talking about?

A What day was this, sir?

Q This is April 9th, the phone call you received from Paul at your father's home.

A Oh, yes. I was referring to Jule.

Q He asked you what's happening and you say, "Ah,

didn't he tell you?". He says, "Can you talk or what?", and you say, "Well --" And he says, "He told me you wanted some bread from me." And you say, "Yeah." He says, "What are you talking about, how much?" And you say, "Two."

What does all that mean?

A That's the $200 that Jule had asked me to get for him.

Q And then you arranged to meet him somewhere?

A Yes, I did, sir.

Q All right. Now, the phone conversation later on that same night, he calls you at your trailer, is that correct?

A Agent Mangor, yes.

Q And he asks you again to explain the situation to him and you tell him, like you ran up $200 short, and he says, "Well, are you going to have enough for an ounce?" And you say, "What?" And he says, "Are you going to have enough for an ounce?" "No problem covering what you want."

MR. HATCH: Your Honor, I object if this is going to apply to Sam Snow. He is reading the testimony there.

THE COURT: It is cross-examination.

MR. HATCH: It may be cross-

examination but he is reading right from the testimony.

THE COURT: He can read anything he wants to on cross-examination. It is in evidence.

BY MR. O'SULLIVAN:

Q It says you say to him, "There will be no problem covering what you want", what Paul wants. What does that mean?

A That means that half-ounce that he wanted.

Q When did you learn about that half-ounce he wanted.

A Pardon me?

Q When did you learn about that half-ounce that he wanted?

A From Jule.

THE COURT: Half-ounce of what?

THE WITNESS: Of cocaine that he wanted.

BY MR. O'SULLIVAN:

Q How did you know it was cocaine? Who told you that?

A Jule when he called.

Q This is on the phone conversation you had with Jules?

A Yes, it is.

Q He tells you that he is going to get some cousin of

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his, Benny, a half-ounce of cocaine and he wants you to get $200 from Benny?

A No, he didn't say he wanted to get it from Benny. He said he needed the $200.

Q And he tells you that his cousin, Paul, is going to give it to you, is that it?

A Yes.

Q Well, what does that mean, he is going togive it to you? For what? For a half-ounce of cocaine?

A Yes.

Q Now, does Jules tell you to represent to Paul that you are going to give him a half-ounce of cocaine?

A Jule must have told him that I would get it for him because then I got a call from Paul and he says, I guess, "What's happening?". I don't exactly remember what we talked about over the phone except that I said "I'll get it. I need $200. I'm 200 short."

THE COURT: We will take a short recess.

(A recess was taken).

CROSS-EXAMINATION (continued)

THE COURT: You are still under oath.

BY MR. O'SULLIVAN:

Q So we get this clear, it is your testimony now that Jules Votraw asked you to get $200 from his cousin, Paul?

A Yes, it is.

Q And did he tell you then that this was for a half-ounce of cocaine?

A No, he did not. He just asked me to -- he just said to go along. His cousin was going to call me, tell him that I could get him what he wanted and tell him I needed $200, I came up $200 short.

THE COURT: Did you ask what it was for?

THE WITNESS: No, I did not.

THE COURT: You weren't curious why somebody is coming along handing you $200?

THE WITNESS: I knew why Paul was giving it to me, what he thought I was getting for him.

BY MR. O'SULLIVAN:

Q This phone conversation from Agent Mangor to your trailer on April 9th, he says to you, "Are you going to have enough for an ounce?" And you said, "I doubt it but there will be no problem covering what you want."

A I really don't recall the conversation.

THE COURT: Do you deny that you had it?

THE WITNESS: Pardon me?

THE COURT: Do you deny that you had this telephone conversation?

THE WITNESS: No, I do not deny it.

THE COURT: And that that is what you said?

THE WITNESS: No, I do not deny it. I just don't recall it.

BY MR. O'SULLIVAN:

Q What did that mean when you said that?

A I don't remember the conversation.

Q What did you intend to convey to Mr. Mangor by that statement?

A I don't know. I don't remember the conversation.

Q Well, I will read it to you.

"Are you going to have enough for an ounce?"

"I doubt it but there will be no problem covering what you want."

A It must mean just what it says, that I said I could get him what he wanted.

Q What did he want?

MR. FISHER: May he have a chance to answer the question?

THE COURT: Yes, don't cut him off.

A Could I have the question again, please?

Q What did he want?

A Coke.

Q How did you know that?

A I was under the assumption that that is what we have been talking about.

Q Who told you that? As I understand your testimony, Jules asked you to get $200 for him. Did he tell you anything else?

A At that time?

Q Yes, did he tell you that he was going to give this cousin, Paul, some cocaine for this $200?

A No, he did not.

Q How do you know what Paul wants then when you --

A His cousin called me at my mother's house and I said, "I can get you what you want but I come up $200 short."

Q His cousin, Paul, called you at your mother's house?

A Yes.

Q This is on April 9th?

A I'm not sure of the date.

Q Is that one of the recorded phone conversations?

A I think it was, yes. I'm not really certain but I think it was recorded.

Q That is the phone conversation that Agent Mangor has when he phones your father's home?

A Yes, it was.

Q All right. Now, subsequent to that, the next phone conversation is when he calls you at your trailer and that is the conversation we are talking about?

A When Jule called me at the trailer?

Q No, when Agent Mangor called you at the trailer on April 9th.

A That is not the next conversation I had with him. The next conversation I had was with Jule.

Q On April 9th?

A I'm not sure of the date, but the next conversation I had with either of the two of them was with Jule.

Q Well, do you recall the conversation that you had with Agent Mangor on the phone on April 9th when you were in your trailer?

A No, I do not.

Q Do you recall Agent Mangor saying, "Oh, hey, I just want a half now."?

A No, I do not.

Q Do you recall yourself saying, "Yeah, that's no

problem. That is 650."?

A No, I do not recall the conversation.

Q And Agent Mangor says, "Six-fifty, so the two, I'll owe you 450."

A I don't recall the conversation.

Q Do you deny that you ever said it?

A I'm not denying it. I just said I do not recall the conversation.

Q Did you hear that on the tapes when they were played in Court?

A I don't recall.

Q What is Agent Mangor talking about? You said you asked him for $200. Now Agent Mangor is talking about $650.

A I don't recall the conversation.

Q Did Jules ask you to get $650 from Agent Mangor?

A No, he did not.

Q He asked you to get 200, that is your testimony?

A Yes, he did.

Q And then when you talked to Agent Mangor, you talked about two from 650 is 450 that he still owes you?

A If I did have the conversation then, it was because that was the balance of what was going -- he supposedly owed me after I got him the coke.

Q Why does he say "I'll owe you $650"? You're telling

me, is it your testimony that he made some deal with --

A No, it is not my testimony.

THE COURT: Please, just a minute. One question at a time.

A (Continuing) Paul was under the assumption --

THE COURT: Wait. There is no question. Wait for a question.

Q Is it your testimony that Jules is going to sell Paul a half-ounce of cocaine?

A No, Paul was under the assumption that he was getting it for him because he would not --

Q What would give him that assumption? Did he tell him you would sell him a half-ounce of coke?

A No, Paul told me he would not deal with Jule.

Q Well, did you tell him that you would deal with him?

A After Jule had asked me, yes, I did.

Q When was this?

A This was after Paul had called me and I received a call from Jule.

Q When was the date of that?

A I said before I was not certain.

Q Is that one of the phone conversations on the recorder?

A No, it was not. That was one that is not there.

Q It is a different conversation that Agent Mangor makes to you?
A There was a couple phone calls that were not in there. The one where Paul called me asking me to do it and I told him no, and the one that Jule called me about the $200, both of the conversations were not in there.
Q Well, in the one that he called you and you said no you weren't going to do anything, is that the one you are talking about that now you told him you would sell him a half-ounce?
A Pardon me?
Q How many phone conversations did you get from Agent Mangor that weren't recorded prior to April 9th?
A I didn't keep count of conversations that I had with him.
Q You testified that you got one phone call from Jules and one from Agent Mangor, is that correct?
A That's correct.
Q And you said when Agent Mangor called you that first time, you told him, no, you weren't going to do anything?
A That's right.
Q Now I am asking you, you are telling me that an early phone conversation you had with Agent Mangor

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you said that you would get him a half-ounce of cocaine?

MR. FISHER: Your Honor, respectfully, could I object to that? The U.S. Attorney is propounding facts that have not been testified to. The sequence of phone calls is not --

THE COURT: A little slower, speak a little more slowly. Simplify your questions. Put leading questions but have some idea where you are going to go next.

BY MR. O'SULLIVAN:

Q Did you ever tell Agent Mangor that you are going to get him a half-ounce of cocaine?

A Yes, I did.

Q When did you tell him that?

A After I received a call from Jule Votraw.

Q When was that, where was it?

A Where was it? I think --

THE COURT: Here we go again. When was it, where was it, that's two questions. Let the witness answer, Mr. O'Sullivan, or don't ask the question unless you want an answer.

Q Where was that?

A At my mother's house.

Q Was Agent Mangor there? We are talking about a

phone conversation?

A That's correct, sir.

Q Was this the same phone conversation, your first phone conversation you got from Agent Mangor?

A No, it is not. The first conversation I got from Agent Mangor, I told him no.

Q And is this the second phone conversation you got from Agent Mangor?

A As far as I can recollect, yes.

Q And is this before April 9th?

A I think so, I'm not sure of dates.

Q And then the second phone conversation you tell Agent Mangor you are going to get him a half-ounce. Did you tell him what the price was?

A I don't really remember telling him what the price was. I said I needed $200.

Q You didn't tell him anything about $650?

A At the time at my mother's house, no, I don't think I did.

Q At the time you told him you would sell him the half-ounce, you didn't tell him the price of a half-ounce?

A I don't think so, no. I think all we did was talk. I said I could get it and I needed $200.

Q Well, then this later phone conversation on April

9th, you and Mangor are talking about $650.

THE COURT: Please sum up later. Ask the questions now.

We will take a recess until tomorrow morning at 9:30.

Don't talk about the case; don't let anybody talk about it with you.

(A recess was taken).

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THE COURT: Proceed.

CROSS-EXAMINATION (continued)

BY MR. O'SULLIVAN:

Q Now, Mr. Snow, you testified yesterday that in April of 1975 you lived in a trailer in Ausable Forks, New York, is that correct?

A Yes, it is.

Q You testified that your cousin, Sam Snow, lived with you in the trailer, is that correct?

A That is correct.

Q Did you both live there in March of '75?

A Yes, we did.

Q Did you both live there through all of April 1975?

A Yes, we did.

Q And did you both live there through all of May 1975?

A Yes, we did.

Q All right. Now, you testified yesterday that you did in fact meet Jules Votraw on the street near your trailer on April 4th, 1975, is that correct?

A Yes, that is correct.

Q You testified that Jules asked you to meet his cousin at a bar that same night and to go along with whatever he says, is that correct?

A That is correct.

Q You testified that you did in fact meet this cousin of Jules' later that night at Menconi's, right?

A Yes.

Q Now, in the period of time between those two meetings, did you meet with your cousin, Sam?

A Between those two meetings, I think for a brief moment while I was going in the trailer he was leaving. Just sort of casual, I said I'm going there.

Q Did you have a conversation with your cousin, Sam, with respect to the meeting you had with Mr. Votraw?

A No, I did not.

Q Well, did you ever have a conversation with your cousin, Sam, about the meeting you had with Votraw on the street and the meeting you had with Votraw and his cousin, Paul, in Menconi's?

A Did I ever have a conversation with him on that?

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Q Yes.
A Sometime later, yes, I did.
Q Well, tell us when that was.
A Approximate time? After we returned from New York.
Q The first time you told your cousin, Sam Snow, of the meeting you had with Jules Votraw and Agent Mangor was after you returned from New York on April 10th, 1975?
A Yes.
Q That is your testimony?
A Yes, it is.
Q And you previously testified that you were living together in a trailer?
A Me and Sam live totally different lives.
Q Well, when you had the conversation with him when you got back from New York, what was that conversation?
A I don't really recall.
Q You can't recall any of that conversation?
A I don't recall the exact conversation, no, I do not.
Q Well, as best you can recall.
A Just that Jule had introduced me to his cousin, this guy supposedly being his cousin.
Q And this is after you came back from New York you tell Sam that Jules told you that this Paul is his

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cousin?

A Yes.

Q Sam didn't know that before? What did Sam say?

MR. FISHER: Could I object, Your Honor, as to the state of mind of Sam?

Q What did Sam say?

THE COURT: Answer.

A I don't really recall what he said. He did say that he had met him too.

THE COURT: He said what?

THE WITNESS: That he had met the same person that I met in the bar.

Q He said that he had met this Agent Mangor?

A Yes.

Q What did he say about that?

A Nothing really except that he didn't like him.

THE COURT: Didn't Sam ride with you and Votraw down from Brewster down to Riverside Drive in the same car?

THE WITNESS: Yes, he did.

THE COURT: What did you talk about on the way?

THE WITNESS: Well, me and Jules discussed his so-called cousin and I told Jule I didn't like him.

THE COURT: What did Sam say?

THE WITNESS: I don't really recall what Sam said. I was more interested in talking to Jule than I was Sam.

BY MR. O'SULLIVAN:

Q All right. Now, you testified yesterday that when you met Agent Mangor with Jules Votraw on April 4th, 1975, Agent Mangor asked you to get him some cocaine and you said no, that was Jules' department, is that correct?

A That is correct.

Q Now, during the conversation you had with Agent Mangor on April 4th, do you deny telling Agent Mangor that you would be going to New York City to purchase cocaine?

A Yes, I do deny that.

Q Do you deny telling Agent Mangor that you would be purchasing an ounce of cocaine?

A Yes, I do deny it.

Q And do you deny telling Agent Mangor that the price of cocaine was 250 to $300 a quarter-ounce?

A Yes, I do deny it.

Q Do you deny asking Agent Mangor how much cocaine he wanted to buy?

A Yes, I do deny it.

Q Do you deny telling Agent Mangor that you could only sell him a half-ounce at that time because the remaining half-ounce had been committed to others?

A On the night in Menconi's, yes, I do deny it.

Q Do you deny at that time he showed you a quantity of money?

A I don't remember seeing any money.

Q Do you deny saying that you would sell Agent Mangor a half-ounce of cocaine for 700, six, 700?

A On the night in Menconi's, yes, I do deny it.

Q Do you deny that you gave him your telephone number?

A No, I do not deny it.

Q You gave him your telephone number?

A Yes, I could have given him my telephone number.

Q Do you deny telling him to call back on Wednesday to consummate the deal?

A Yes, I do deny it.

Q But you gave him your phone number?

A Yes, I did.

Q For him to call you?

A If he was ever around, yes, to call me.

Q Was that for some social occasion?

A Yes, he was Jules' cousin. Jules was a friend of mine.

Q I thought you said you didn't like him.

A I didn't like him. I didn't really care for him, no.

Q But you gave him your phone number?
A That is correct.
Q To call you up?
A That is correct. I gave a lot of people my phone number to call me up.
Q Okay. Well, you do not deny leaving your father's phone number with someone at Menconi's with a message that if Paul, that is Agent Mangor, came in or called, that he, Paul, should call you at your father's phone number?
A No, I do not deny it.
Q And who did you leave the message with?
A Who did I leave the message with?
Q Yes.
A A friend of mine.
Q What is his name?
A His name is Dave.
Q Dave what?
A Just Dave.
Q Just Dave?
A Yes.
Q He is a friend of yours and you only know his first name, is that your testimony?
A Yes, I do not.
Q All right. Now, you testified yesterday that Paul

or Agent Mangor called you on the phone sometime after that. When was that?

A After the night in Menconi's?

Q After the night in Menconi's.

A He called me around the first of the week.

Q First of the week. Now, what day of the week is it when we are in Menconi's on the 4th?

A Pardon me?

Q What day of the week is April 4th in Menconi's?

A Friday.

Q Friday?

A Yes, sir.

Q The first of the week is Monday now?

A Monday or Tuesday he called.

Q You are talking about the 7th or 8th of April, is that correct?

A Approximately the first of the week, whatever the date was. I'm not certain of the date.

Q Friday was the 4th. What would Monday or Tuesday be, 7th or 8th?

A Seventh or 8th.

Q Would you tell us what that conversation was that you had with Agent Mangor on the 7th or 8th over the phone?

A He asked me once again if I would buy him some coke.

Q I'm sorry, I can't hear.
A He asked me once again if I would buy him some coke.
Q What did you say?
A I told him no.
Q Was there any further conversation?
A Not that I recall, no, I don't think so, not that much.
Q That is all that was said, will you buy me some coke? No.?
A I can't recall the exact conversation, no.
Q All right. Now, you testified yesterday that the day after that you received a phone call from Jules Votraw?
A Yes, I did.
Q That would be on the 9th, or the 8th or 9th of April?
A It was shortly after I had talked to Agent Mangor.
Q Did you know where Jules was calling you from?
A I assumed he was calling me from where he was, at work.
Q From where?
A At work.
Q Where would that be?
A Brewster, New York.
Q Will you tell us the conversation that you had with Jules at that time?

A He asked me if I would just go along with his cousin, tell him that I could get him the stuff but I would need $200. At first I said, no, I wouldn't do it, and then he said, "You owe me a few favors." So finally I said, "Okay, I'll do it, I'll tell him." And that was it. He said, "My cousin will be getting in touch with you."

Q Is that the entire conversation?

A I can't remember every word of the conversation.

Q As best you remember, that is the conversation?

A That is the best I can remember.

Q He tells you his cousin, Paul, is going to contact you?

A He said that his cousin would be getting in touch with me.

Q And he tells you to ask Paul for $200?

A Yes. He said, "Just tell him you come up 200 short."

Q Did you know what that meant, 200 short?

A I needed $200 to buy whatever I was going to buy him.

Q What was it you were going to buy?

A Supposedly a half-ounce of cocaine or something.

Q Was there any conversation, did Mr. Votraw tell you anything about that?

A No, just to go along when his cousin called, tell him that I could get him what he wanted but I would

need $200.

Q Was there any conversation about what the price of this cocaine was going to be?

A At that time, no.

Q Now, you testified yesterday that you heard the tapes of the phone conversations you had with Agent Mangor on Wednesday, April 9th, 1975 which were played in Court here on Monday, is that correct?

A That is correct.

Q And didn't you testify that those tapes were an accurate and complete depiction of the phone conversations that you had with Agent Mangor on April 9th, 1975?

A Could I have the question back, please?

Q Did you testify that those tapes were accurate and complete depictions of the phone conversations that you had with Agent Mangor on April 9th, 1975?

A I assume they were accurate, but complete, I could not say.

Q Did you testify yesterday that they were true and accurate?

A Yes, I did testify that.

Q And you don't deny anything said in those conversations?

A No, I do not deny it.

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Q I show you Government Exhibit 6 and I refer you to page 7 of that transcript of the phone conversations you had with Agent Mangor on April 9th and ask you to look at line 21 through 25. Now, will you read the conversation that is depicted there?

A You said page 7?

Q Page 7.

A Line 25?

Q Beginning on line 21, page 7. Would you read the conversation depicted there beginning there and all of page 8?

A Do you want me to --

Q I want you to read it.

A "Are you going to have enough for an ounce?"

Q Read who is saying it.

A "Mangor --"

MR. FISHER: Your Honor, I respectfully add that this is in evidence. If it is a question of refreshing his recollection --

THE COURT: He shoots his questions so fast that you don't let the witness answer. Ask the question, get an answer and then ask the next one. Start over.

How much longer do you think you are going to be?

MR. O'SULLIVAN: Well, maybe a half-hour. I didn't really know.

Q Let me refer you then to lines 23 and 24 on page 7 of the transcript. Do you see that?

A Yes, I do, "Mangor".

Q What do you mean to convey when you tell Agent Mangor that there will be no problem in covering what he wanted?

A What do I mean by that? That I would be able to get him what he wanted.

Q What did he want?

A A half-ounce of coke.

Q And he told you this the first time on April 7th?

A Yes, he did. As you know, the first time he mentioned it was in the barroom.

Q And you agreed to represent to him that you will be able to get him a half-ounce?

A In the barroom, no.

Q Pardon me?

A In the barroom, no, I did not.

Q When you talked to Jules Votraw on the 8th?

A When I talked to Jule, I told him I would go along with him.

Q Well, did you tell Agent Mangor you would get him a half-ounce?

A That at the time of the conversation when we talked after I talked about it to Jules, yes, I did.

THE COURT: You did tell him that?

THE WITNESS: Yes, I did.

THE COURT: And you were just kidding, is that what you are telling us now?

THE WITNESS: Yes. I wasn't kidding. I was going along for Jules' sake.

THE COURT: You had no intention?

THE WITNESS: I had no intention of buying it.

THE COURT: You were lying to Agent Mangor?

THE WITNESS: Yes, I was lying to Agent Mangor.

THE COURT: When he tells us here that you said you could get him an ounce, is that so?

THE WITNESS: When I told him, I told him I would but I had no intention of doing it.

BY MR. O'SULLIVAN:

Q You testified that your purpose in meeting him, or the purpose of these phone conversations and meeting him was to get the $200 for Jules Votraw?

A Yes, it is.

Q Now, I refer you to lines 1 and 2 on page 8 of Government Exhibit 6 and I ask you to read that, what you asked him there or what the conversation is there.

A "Glen: Yeah, that's no problem. That's 650.

"Mangor: 650. So I'll owe you 450 then."

Q Did he owe you 450?

A Did he owe me 450? At this time he didn't owe me anything.

Q Why are you saying that that's no problem and that is 650?

A Because that's what the price would be, I imagine.

THE COURT: Mr. O'Sullivan, that is an argumentative question. Why, why, why. We don't care why.

BY MR. O'SULLIVAN:

Q All right. When Agent Mangor says, "So with the two, I'll owe you 450", you respond, "Right, that's cool", is that correct?

A Yes, it is.

Q But you testify now that he didn't owe you 450.

A He didn't owe me a cent. I hadn't purchased anything. How could he owe me anything?

Q All right. Look at lines 12, 13 and 14 of Government Exhibit 6 where Agent Mangor asks you if he

will have it on Friday night and you respond "Friday evening for sure." Who is it he referred to?

A Jule.

Q What was he going to have Friday night?

A I imagine a half-ounce of coke. I'm really not certain.

Q You told him that for sure Jules would have that Friday night?

A Supposedly, yes, I guess.

Q Now look at line 16, 17 and 18 where you say in response to Agent Mangor's inquiry, "For sure", you say, "Unless things get messed up in the process. But I talked to everybody and so far everybody thinks everything is cool." Who did you mean when you said you talked to everybody?

A The people that I was supposedly going to get it from.

Q What people were you supposedly going to get it from?

A The people from New York.

Q But you didn't know any people in New York who would get it for you?

A I know people in New York but I didn't know anybody that could get it for me, no.

Q All right. You testified on direct testimony that

on the way to New York City with your cousin, Sammy, and Jules that you told Jules that you didn't want anything further to do with his cousin, Paul, is that correct?

A That is correct.

Q And you testified that Jules told you that the guy, referring to Agent Mangor, was not cool?

A That's correct.

Q And that he was not in fact his cousin?

A That is correct.

Q But he was really an undercover narcotics agent?

A He did not say undercover narcotics agent. He said the guy was a nark.

Q He said the guy was a nark?

A That is correct.

Q What did that mean to you?

A That meant that that could possibly be a cop or something.

Q And this conversation takes place on April 10th, 1975, isn't that true?

A Pardon me?

Q This conversation took place on April 10th, 1975, you were on your way to New York City, is that correct?

A The day we went to New York, yes.

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Q Would it be fair to say then on April 10th, 1975, you and your cousin, Sammy, who is present for that conversation, knew that Agent --

MR. HATCH: Objection, Your Honor.

MR. FISHER: Could I --

THE COURT: Sustained.

Q Was your cousin, Sammy, in the car when you had this conversation with Jules Votraw?

A Yes, he was.

Q All right. Is it fair to say then that they would know from that point on that this person, this cousin of Jules is really not his cousin?

MR. FISHER: I object to that, Your Honor, it is a state of mind.

THE COURT: Sustained.

Q All right. Now, I refer you to the recorded phone conversation that you had with Agent Mangor on April 11th, 1975, the day after he tells you that his cousin, Paul, may be a nark. On pages 11 through 15 of Government Exhibit 6 in evidence, the transcript of that recorded conversation, I direct your attention to lines 22 to 25 on page 12 of the transcript. Now, this is the day after you come back from New York City, is that correct?

A Yes, it is.

Q Now, will you read the conversation depicted between lines 22 and 25 of that transcript?

A What would you like me to start with?

Q "Mangor: Well, are you going to --"

A "Mangor: Well, are you going to be able to do anything in the future of what?

"Glen: I'm trying. You know, like I said, you never know."

Q Trying to do what?

A Trying to buy coke for him.

Q Is it your testimony now after you have knowledge that this person may be a narcotics agent, you told him you would try to get him some narcotics?

A Jule told me not to let him know that I knew he was a narcotics agent because he would be in trouble, and this is the reason why he introduced me to the guy to begin with.

MR. FISHER: Can he have an opportunity to answer a question before he cuts him off?

THE COURT: Yes, let him answer.

Q Well, was this also after the time that you told Jules you wanted nothing further to do with this person, Paul?

A Pardon me?

Q The conversation on the 10th on the way to the city, you tell Jules Votraw you want nothing further to do with Paul, is that correct?

A That is correct.

Q And in this subsequent conversation you tell Paul you will try to get him some cocaine, is that correct?

A That is correct.

Q Now, on direct testimony you testified that you did in fact meet Agent Mangor at his car in the parking lot of the Howard Johnson Motel on April 9th, 1975, is that correct?

A That is correct.

Q Will you tell us the conversation you had with Agent Mangor then?

A Well, we had an argument over the whole thing. Agent Mangor was telling me that I was going to give him this cocaine in public where everybody was around and I told him, no, I would not because I had more to lose than what he did. It was my life that was onthe stake, not his.

Q Was there any further conversation?

A We talked a little bit about Jule.

Q What was said?

A Well, I told him that, first I said, "Well, Jule will

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give you the coke." And he said, no, he didn't want anything to do with Jule because Jule had been in trouble and he didn't want to be connected to Jule at all.

Q Well, do you deny that you told Agent Mangor that you needed an additional $200 because Sammy couldn't come up with any money?

A Do I deny that?

Q Yes.

A I don't remember saying it, no.

Q Do you deny telling Agent Mangor at that time that you were only able to collect $600?

A I do not remember saying that, no.

Q Well, would you have said that?

MR. FISHER: I object to that, Your Honor, it is speculative.

MR. O'SULLIVAN: I will withdraw it.

Q Do you deny telling him on that occasion that you were going to New York City to purchase three-quarters of an ounce of cocaine?

A Do I deny it?

Q Yes.

A I don't remember saying it, no.

THE COURT: Do you deny it, not that you don't remember. Do you deny that that is what

you said?

THE WITNESS: I don't deny it, no. I don't remember saying it.

THE COURT: What is your best recollection, did you say it or didn't you?

THE WITNESS: My best recollection, I don't really know if I said it or not.

THE COURT: You told us you were going along with this thing, pretending to be a supplier of narcotics?

THE WITNESS: A lot of things I didn't think about at the time. It was --

THE COURT: We will take a short recess.

(A recess was taken).

THE COURT: All right, proceed.

BY MR. O'SULLIVAN:

Q Now, Mr. Snow, you testified on direct examination that you did in fact take out a loan on April 9th, 1975 from the National Commercial Bank in Ausable Forks in the amount of $600, is that correct?

A Yes, I did.

Q You testified that you used $200 of that $600 to purchase some stereo equipment, is that correct?

A That is correct.

Q And you put the other 400 in the Federal Credit Union?

A That is correct.

Q How much interest do you pay on this loan?

A I'm not sure how much interest.

Q How much interest do you get from the Federal Credit Union?

A I have no idea.

Q But you took out a loan for $600 although you only needed $200 and you put the other $400 in the credit union, is that correct?

A At the time, at the time I was planning on buying more stereo equipment.

THE COURT: That is not responsive. Is that what you did with the money?

THE WITNESS: No, I spent $200 of it on stereo equipment and the other 400 I put in the credit union.

BY MR. O'SULLIVAN:

Q Well, now I will direct your attention to page 15 of Government Exhibit 6 in evidence which you testified is true and accurate, and refer you to lines 3, 4 and 5, page 15. Will you read the conversation depicted there?

A "Glen: I don't know for sure. It all depends on

how the situation goes."

Q I'm talking about line 3.

A "Mangor: Well, I thought you had bread, You told me you had $600."

Q The next line.

A "Well, I did, but I lost a hundred."

Q When did you tell Agent Mangor you had $600?

A I don't really remember.

Q Wasn't that in the parking lot at Howard Johnson's on April 9th?

A It could have been, yes.

Q And then you told him there that you were only able to collect $600?

A I went to the bank that same day and got $600. I could have told him, yes, that I had $600.

Q And this was the $600 you represented to Agent Mangor you're going to use to buy cocaine?

A Pardon me?

Q You represented that that $600 you were going to use to buy cocaine for Agent Mangor?

A I did tell him that.

Q You did tell him that?

A I told him that.

Q You told him that in the parking lot on April 9th, or else how would he know -- why would you say,

"Well, I did" after he asked you if he had the bread?

MR. FISHER: I object to the word --

MR. O'SULLIVAN: All right.

Q Now, on your direct testimony, you testified that you were never in possession of any cocaine, is that correct?

A Yes, I did.

Q Is it your testimony now that you never had any cocaine?

A Yes, it is.

Q Do you know a James Louis Samuels?

A Yes, I do know him.

Q Was he ever at your trailer in Ausable Forks, New York?

A On one occasion, yes, he was.

Q On one occasion?

A On one occasion.

Q Did you ever give him any cocaine?

A No, I did not.

MR. O'SULLIVAN: I have no further questions.

MR. FISHER: Is it Mr. Hatch's turn?

MR. HATCH: It is my turn.

CROSS-EXAMINATION (continued)

BY MR. HATCH:

Q Glen, this bank loan, Sam, did he participate with you in the bank loan?

A No, he did not.

Q On the 4th of April was Sam aware of the bank loan?

A On the 4th?

Q Yes.

A On the 4th, I wasn't aware of the bank loan.

Q When did you become aware that you were going to take out a loan?

A During the week when I discussed buying the stereo from Mr. Peckum.

Q Now, Mr. O'Sullivan has made a great deal about these telephone conversations. At any time during these conversations was Sam present?

A No, he was not.

Q But he was present on one call when he answered the phone?

A Yes, that is correct.

Q Did he stand by the phone when you had that conversation?

A No, he did not.

Q Now, you were married, right, you are married?

A Yes, I am.

Q Is Sam Married?

A No, he is not.

Q Do you and Sam live different lives?

A Now we don't, no, we are pretty close since we got arrested, but before that we led completely different lives.

Q In other words, you had a set of friends and he had a set of friends?

A That is correct.

Q Okay. Now, would you say that you traveled in the same circles?

A No, I would not say we traveled in the same circles.

Q You were in the Air Force, weren't you?

A Yes, I was.

Q And he was a civilian?

A That is correct.

Q Do you know what job he did?

A He was an insurance salesman.

Q Do you know what company he worked for?

A I think it was Combined Life.

Q Now, in the trailer that you live in, did you share things?

THE COURT: This is cross-examination, not direct examination. Don't lead, Mr. Hatch.

MR. HATCH: Okay.

THE COURT: You may lead, you may lead. It is cross-examination.

BY MR. HATCH:

Q How big is Ausable Forks?

A It is not a very big town, it is quite a small town.

Q Has it got one main street?

A One main street, yes.

Q And your father, was he in local government?

A Yes, he was in politics.

Q So James A. Snow is not a stranger to the community?

A No, not at all.

Q And isn't he on the Tax Assessment Review Board up there?

A Yes, he is.

Q And in other words, he was in local politics?

A Yes.

MR. O'SULLIVAN: I object. I don't see the relevancy.

THE COURT: Sustained. It is all totally immaterial. You should have objected five minutes ago. Wake up.

Q Well, Mr. O'Sullivan made a big deal about the telephone number. Does most everybody in Ausable Forks know your father?

THE COURT: Sustained.

Q How big is the telephone book in Ausable Forks?

THE COURT: Sustained.

MR. HATCH: I have nothing further.

REDIRECT EXAMINATION

BY MR. FISHER:

Q Glen, you testified in reference to the telephone number listing as James Snow. Is James Snow your father?

A Yes, he is.

Q And the trailer that you were living in during the month of April 1975, is that where this telephone was listed at?

A Which number, sir?

Q Your father's under the name of James Snow.

A My father had two listings, one at his house and one at my trailer.

Q And the telephone listing James Snow at the trailer, that is your father's name?

A Yes, it is.

Q And was this originally your father's trailer?

A Yes, it was.

MR. O'Sullivan: I object, Your Honor. I don't see the relevance.

THE COURT: Sustained. Is there any

dispute about the fact that there was a telephone call to James Snow?

MR. FISHER: Only that --

THE COURT: That was the telephone number. The witness admitted it.

MR. FISHER: I don't dispute it either, but I want the jury to know that the phone listed under James Snow at the trailer is actually in the trailer he lived at, not at his father's house, that was the only purpose of it.

THE COURT: All right, go ahead.

BY MR. FISHER:

Q Now, this trip that you made to Brewster on April 10th, will you tell the jury how much money you brought with you on this trip?

A All together?

Q Yes.

A Approximately around $900.

Q And in addition to the $600 which was discussed, where did you get the other 300?

A I was paid for working. I was in the Air Force.

Q Pardon me?

A I was in the Air Force at the time and I had just received my paycheck.

Q And you cashed it and you had brought that money

with you?

A Yes, I did.

Q. And you had also brought the money that you got on that loan that day?

A Yes, I did.

MR. FISHER: I have nothing further.

THE COURT: You are excused.

(Witness excused).

MR. FISHER: Glen Snow rests, Your Honor.

THE COURT: Do you rest?

MR. HATCH: Your Honor, I would like to call Mr. Samuel Snow.

SAMUEL LEE SNOW, a defendant, having been called as a witness in his own behalf, was first duly sworn according to law and testified as follows:

DIRECT EXAMINATION

BY MR. HATCH:

Q Sam,would you give your full name and address for the record?

A Samuel Lee Snow, 7 Charles Street, St. Anthony, New York.

Q And you have heard the testimony here. Are you still an insurance salesman?

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A No, I am not.
Q What are you doing now?
A Presently attending North Country Community College.
Q Keep your voice up, Sam, I would like the jury to hear you.
A I am presently going to school at Saranac Lake, New York to North Country Community College.
Q And are you going on the G.I. Bill?
A Yes, I am.
Q Now, Sam, since you are going on the G.I. Bill, you must have been a veteran.
A Yes, I am.
Q Okay. Now, have you ever been convicted of any crime in the State of New York?
A No, I have not.
Q Have you ever been convicted of any crime in the United States or any of its territories?
A No, I have not.
Q Now, Sam, you lived in Ausable Forks around April of 1975?
A Yes, I did.
Q And you lived in this trailer with Glen?
A Yes, I did.
Q You heard Mr. Votraw testify. Can you tell us what you recall or what you know about this thing we are

here for?

A Beginning with what time?

Q Well, say, two weeks prior to April 4th, 1975.

A Two weeks prior to April 4th, 1975, I believe we were, the three of us, Julie, Glen and I, were all in a bar in Ausable Forks, New York previously called Menconi's Bar and Restaurant. Glen and Julie were having a conversation, and I believe it was about going to New York to see some people.

Q Were you a party to that conversation?

A No, I was not.

Q Were you planning to go to New York with them?

A No, I was not.

Q Do you know Jules Votraw?

A Yes, quite well.

Q Well, is Jules more your age than he is Glen's?

A Yes, he is.

Q Were you and Jules classmates?

A He was, I believe, about two grades behind me through school.

Q Well, when Jules said he didn't know you people that well, is that really correct?

A No, it is not correct.

Q Jules lived on the next block from you?

A Yes, he did.

Q Now, do you know of your own personal knowledge whether Glen and Jules, at that meeting, discussed anything about going to New York?

A I am not sure, actually. I think they were talking about making a trip to New York.

Q Did Glen tell you they were going to New York?

A I believe he said something about making a trip in a couple of weeks.

Q That is as far as you know about that?

A Yes.

Q Now, you heard Jules and you heard Agent Mangor testify. Could you tell us what happened on April 4th, 1975, what you did that day and what transpired?

A Well, sometime in the early evening, Jules Votraw came into Menconi's Bar where I had been for the previous two or three hours drinking, and he said that he was bringing his cousin from Burlington over that night to the bar and he said was anything going to be happening at the bar, were there going to be any people around, something like that. And then I went to another bar.

Q O'Sullivan is going to ask you, what is happening, what did that mean to you?

A It means was anything going to be going on that night, were there going to be any girls around the

bar, were there going to be a lot of people.

Q How many bars are there on that strip in Ausable Forks?

A Two.

Q What are their names?

A One is Menconi's Bar and Restaurant, and that is where most of the young people hang out or go to, and the other bar is Paul's, and that is where people, I would say, older people go.

Q And Paul's is how far from Menconi's?

A Maybe 40 yards.

Q Now, when he had this conversation, what did he say to you and what did you say to him, so that the record shows it?

A I was at the bar having a drink and he came in, sat down beside me, and I said, "How have you been?", I hadn't seen him for about a week. I usually saw him about every weekend. And the conversation was just that he was bringing his cousin over from Burlington. He was going to school there, I believe, at the University of Vermont in Burlington, and he said that, he just asked me if anybody is going to be around that night.

Q Did he say that this man was interested in narcotics?

A No, he did not.

Q Did you know whether Jules had any cousins?
A No, I did not.
Q But the Votraw family in that area is a big family, isn't it?
A Quite big, yes.
Q Now, could you tell us what else happened that evening?
A After Jule left, I had a couple more drinks at Menconi's Bar, then I got up and left and went to Paul's. The girl that tends bar there is a friend of mine and I sat with her for a while and had a few drinks, and then I went home.
Q What is the girl's name?
A Marcy Betters.
Q And then what did you do?
A Then I went home for a while. I had something to eat, washed up and, oh, I'd say about quarter of 10 or so, sometime around that time --
Q Do you drink a lot?
A Yes, I do.
Q Can you drink a lot yourself, consume a lot?
A No.
Q Okay. Could you tell us what else happened?
A I was getting ready to leave the trailer and Glen was coming in, and I hadn't seen him all day. I

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said, "How are you doing?" He said, "Not too much." I said, "I'm going out for a while", I would be at Menconi's, "I'll see you later." I left the trailer, went downtown, went into Menconi's Bar and went up to the bar and got a drink. I talked to a few friends. I looked around and saw Jules Votraw sitting in the corner and he motioned for me to come over and sit down. They had a pitcher of beer on the table, so I went over and sat down and they said, "Help yourself to the beer", so I sat down and I was drinking. I wanted to talk to Jule Votraw more or less.

Q Why did you want to talk to Jules Votraw?

A He was supposed to bring me an ounce of marijuana.

Q In other words, you smoked dope with him?

A Yes, I have.

Q And did Julie bring it up from New York City?

A Pardon me?

Q Julie was to bring it up from New York City?

A I don't know exactly where he was supposed to bring it from.

Q Well, what did you say to Julie and what did he say to you?

A I tried to talk to Julie about the stuff and he kept putting me off and not talking to me, and then he

introduced me -- actually, when I sat down, he introduced me to his cousin and said, "This is Paul", so I started talking, trying to talk to Julie and he didn't actually want to talk to me, so Paul started talking to me. And I was pretty drunk. I don't actually remember what we talked about. Mostly I guess, he has a --

Q Did he ask you about cocaine?

A No, he did not.

Q Did he ask you about $600?

A No, he did not.

Q Did he ask about anything, moneywise?

A No, he did not.

Q Was your conversation very long?

A Maybe 15 minutes.

Q Did you try to fix them up or get him a date?

A No, I did not.

Q You saw this man by the name of Paul. What was your impression of him?

A He said he went to college at the University of Vermont. He was working on, I guess, his masters degree or something. He just looked like an average guy that would be working on his masters degree.

Q Did you like him, good vibes, as you people say?

A No, I did not.

Q All right. The conversation ended. Did the conversation end, and what happened after that?

A Yes, it did. I went over, got up and went and had some more drinks around the bar.

Q Do you know what you did the rest of the night, do you know where you went?

A I don't remember. I was pretty drunk when I went into Menconi's the second time.

Q Now, do you know where you were on the 5th, 6th, 7th? Tell the Court what you did, and the jury.

A I was probably selling insurance. I don't exactly remember where I was.

Q You sell for Combined Life?

A Yes, I do, Combined Life Insurance Company of New York, Albany, New York.

Q That used to be Heartstone?

A Yes, it did.

Q In other words, this is a canvassing job?

A Yes, it is, door to door.

Q And do you make calls on the weekends sometimes?

A Yes, I do.

Q Now, from that time till the 9th of April, when did you learn about the trip to New York and when did you learn about the money that Glen was borrowing?

A I learned about the trip to New York about two weeks

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before I heard, Glen told me that he and Jules were thinking about going, and I didn't think I would be able to go because I had to work. So around, I guess it was the 8th, anyway it was the day before Glen went to New York, Glen invited me to go.

Q Did you ever know about this loan of Glen's?

A I knew about that loan of Glen's the day that he got the loan.

Q The 9th?

A Yes, if that was the day that he got the loan.

Q In other words, you are not his financial secretary, are you?

A No, I am not.

Q Now, when you were asked to go to New York, could you tell us what the circumstances were around that?

A The people in New York usually come up in the summertime to Ausable Forks and I knew them fairly well, and they wanted to have a party so we had been invited to go down there and party with the people.

Q But what did Glen say to you and what did you say to Glen?

A Glen said, "I'm going to New York tomorrow to see some friends, a party", he said, "Would you like to come along?" I said, "Yes, I would."

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Q Now, were you present when he had any conversations with Votraw on the phone?
A Only the one in the bar.
Q On the telephone?
A No, I was not.
Q Now, when you rode to New York, got in that car and went to New York, did you know anything about this proposed transaction for cocaine?
A No, I did not.
Q Did you have any money involved in this transaction?
A No, I did not. At the time I had very little money
Q Now, when you went to New York and you were driving down, could you tell us what your conversations were?
A We talked mostly about what we were going to do when we got to New York, get drunk, see the fellows, these friends of ours, and Glen asked me had I ever met this cousin of Julie's and I said yes and I thought he was a pretty strange guy. I didn't like him very much. Every time I tried to talk to Julie, he cut me off.
Q Did he tell you about what Paul and he had talked about?
A No, he did not.
Q Did he tell you what Jules and he had talked about?
A No, he did not.

Q Well, were you ever actively involved with Glen in any transactions, so to speak?

A No, I was not.

Q And did you talk about women down there?

A Yes, we did.

Q Would you say that that occupied a good share of your conversation to New York?

A Yes, it did. I have been down to New York once in the summertime and met this girl and I wanted to go out with her, and another girl from New York had come to Ausable one time and Glen wanted to go out with her.

Q Glen met a girl one time from New York City?

A Yes, he did.

Q And he disappeared for about five days?

A Yes, he did.

Q So you fellows, there is no question that you like girls and you like to drink?

A That's true.

Q And you smoke a little marijuana?

A That's true.

Q Like a lot of other people?

A Yes, that's true.

Q Now, when you got down to Brewster, New York, tell the court and tell this jury what you did, what

they said and what happened.

A When we got to Brewster, New York, first of all we didn't know exactly where Jules' motel was and we had to go to a gas station to find directions. We got to the motel and Jules was eating, so he finished eating awfully quickly, then we went out and got in the car and started to go to New York. After we were on the road for a little ways, I saw Glen pass Jules some money and say, "This is your cousin's money."

Q Well, before he passed that money, did you overhear any conversation between Votraw and Glen about anybody in particular?

A He just said that they were talking about this Paul, Julie's cousin, and Glen said he didn't like him, he didn't like the dude at all.

Q Did you participate in that conversation, did they ask you?

A No, they didn't ask me.

Q Well, did Jules say, what do you think of Paul?

A Yes, and I said the night I met him I didn't like him at all. I was drunk and he wouldn't let me talk. He cut me off all the time when I was trying to talk to Julie. I said I didn't like the guy at all.

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Q Did you, in that brief moment that you met him, did you form an opinion of him?

A Yes, I did.

Q What did you think?

A I thought he looked kind of sissified.

Q Did you tell that to Glen and Jules?

A When we were in the car?

Q Yes.

A Yes, I did.

Q And was that said before the money was passed or after the money was passed?

A I don't really remember.

Q Was there any further conversations that you overheard Jules Votraw and Glen Snow relative to this Paul?

A No.

Q All right. Was there ever a conversation that they thought he is in narcotics?

A Yes, there was.

Q Was this in that car?

A Yes, it was.

Q Now, Sam, could you tell us what happened in New York City? Tell it in your own words.

A We got into New York City late. It was probably 9 o'clock at night. When we got there, John Simon

and Neil Cohen were waiting outside for us. We got out of the car and went up to John's house. His mother was there. She fixed us something to eat, I don't know whether it was bread and butter or coffee, whatever, and we ate and then John Simons' mother left. They had, I guess, three or four bottles of wine there. We went into the living room or bedroom, I don't remember exactly which room, turned on the music and started talking and drinking.

Q And what Jules Votraw told this Court, did that happen in that room down there?

A No, it didn't.

Q What happened? Tell the Court, tell the jury what happened.

A All we did, that I remember, is, there was marijuana there and we were smoking, and then we had wine and we were drinking. We were talking about going to see other people that were friends of ours also, and to other parties.

Q Did you ever make a gesture to somebody in that room?

A No, I did not.

Q Did you say what Jules said, there isn't anything or anything, or nothing?

A No, I did not.

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Q Now, were you drinking Sangria, or what were you drinking?

A I was drinking wine. I don't really recall what type of wine it was.

Q Now, who were you with most of the time while you were in that apartment?

A John Simon.

Q Now, did there come a time that you sat at the dinner table or breakfast table, whatever, that you just said?

A Yes, when we first got there we sat there and ate. His mother fixed something to eat.

Q Were you and two other men sitting there cutting dope?

A No, we were not.

Q Did you ever see a plastic bag?

A No, I did not.

Q Did you ever participate in cutting up or breaking crystals?

A No, I did not.

THE COURT: Did you see tinfoil packages?

THE WITNESS: No, I did not.

THE COURT: Did you see anybody taste it?

THE WITNESS: No, I did not.

THE COURT: Were you in the same room with your cousin?

THE WITNESS: I don't remember. I was sitting either in the living room or bedroom and we were drinking wine.

THE COURT: Was Glen with you?

THE WITNESS: Most of the time, yes, I believe he was.

BY MR. HATCH:

Q Now, they had a stereo set and all this rock music?

A Yes, they did.

Q And it is usually very loud. Was it loud that day?

A Most of the time when we listen to music, we play it very loud.

Q Was it too loud to hear conversations?

A It wasn't too hard to hear conversations if you were right close to someone.

Q Now, did you go to a party, what did you do after that?

A We left that house and went to another house to another party and did some more drinking.

Q Now, did you get drunk that night?

A Yes, I did, very drunk.

Q Did you do what Jules said you did?

A Yes, I did, passed out.

Q . Two people had to help you out of the place?

A Yes, that's true.

Q And they put you in the car?

A Yes, they did.

Q What is the next thing you remember?

A The next thing I remember is about, we were almost in Brewster and he slammed on the brakes and they said, "There's some deer." And I woke up and I said, "Where, where?" And I didn't see them. They had already jumped off the side of the road. Then the next thing I remember is, they helped me out of the car into the room, and the next thing I remember is when I woke up the next morning.

Q When you started out in Ausable Forks, how long did you think the trip was going to be in New York?

A We were supposed to stay there the whole weekend.

Q When you rode down to New York City, was a conversation had about the duration of your --

A Yes, there was.

Q What was said?

A We were about, maybe half or three-quarters of the way to New York City and Jules said that he had to be back to work the next morning, and Glen sort of got mad. He said, you know, that we were going down

here to spend the entire weekend. And Jules said, "Well, I can't help it. I have to go back to work." And Glen said, "Then why didn't you drive your own car?"

Q Well, your understanding was that you were going to be there until at least Sunday?

A Yes.

Q Now, then there was a change in plans?

A Yes, there was.

Q When you were at the motel, the Fox Hill or whatever motel that Jules hangs his hat in, did you see any transaction take place in the morning?

A No, I did not, I was asleep.

Q What time did you get up?

A I don't remember. All I can remember is that Glen was shaking me and saying, "Get up, it's time to leave" and when I woke up, there was nothing in the room but Glen and I.

Q And you and Glen slept in the same bed, right?

A Yes, we did.

Q Now, when you rode back from New York to Ausable Forks, did you sleep or did you talk, or what did you do, would you tell us?

A On the way back from New York to Brewster?

Q No, from Brewster to Ausable Forks.

A I believe I was awake some of the way and I slept part of the way. It was very early in the morning.

Q Did you have any conversations about any of the transactions or anything that took place?

A No.

Q Now, when you got back to Ausable Forks, did you ever have any conversations with Benny Mangor after you learned he was a nark?

A Yes, I did.

Q What did you tell him?

A I believe he called me up and said that he wanted to get some cocaine, and I told him I would think about doing it for him.

Q Now, what was your intention when you found out that he was a nark and he asked you to buy some cocaine?

A At that time I was behind quite a bit in my bills and I owed my insurance company money. We did not have to turn in all our money every week. You are supposed to, but sometimes if you needed a little extra money, you could put it aside. And I had taken maybe 150, $200. And I also was behind one or two car payments at the time, so I decided I would get some money.

Q Now, do you remember the date of that conversation?

A No, I don't.

Q But it was after April 10th?
A Yes.
Q Was it to the trailer of James A. Snow?
A It could have been.
Q Mr. Mangor didn't record that conversation, did he?
A I don't believe so, no.
Q Well, has it ever been here in Court?
A No, it has not.
Q Well, did you intend to rip Mr. Mangor off?
A Yes, I did.
Q And did you rip him off?
A Yes, I did.
Q Did you get $650 of the Government's money?
A Yes, I did.
Q And did you buy any drugs with it?
A No, I didn't.
Q What did you do with it?
A I paid back some of the money to my company; I paid a car payment with the money and I owed other people money also.
Q Did you ever tell an officer of the law that that's what you did with that money?
A No, I did not.
Q Well, when you were arrested, did you have a conversation with an officer?

A Yes, I did.
Q What did you tell him?
A I told him that I had gone down to New York and given the money to somebody in Harlem and that the guy never came back.
Q And that wasn't true, was it?
A No, it was not.
Q Then you told him you ripped the officer off?
A Yes, I did.
Q When you were supposed to deliver the drugs, what happened, what did Agent Mangor do?
A I really don't know. I didn't go there to deliver any.
Q Did you have a conversation with him?
A Did I have a conversation with him about delivering the drugs?
Q After. Did he call you?
A He tried to call me.
Q Did you give him the runaround?
A He never got in touch with me.
Q Did he eventually get in touch with you?
A Yes, he did.
Q Were there some other people with him?
A Yes, there was.
Q Who was with him?

A I believe it was a man that I know now as Special Agent Dunham.

Q And they crashed into your trailer?

A No, the night before they crashed into our trailer they came to Menconi's Bar where I was that night. I had told people that I just didn't want to get in contact with them, if they tried to get in touch with me I wasn't around. They came into the bar and they sat down, and Special Agent Dunham said he had put money into this deal and he wanted to get something out of it, and I said I can't locate the guy. I went to New York, gave the money and I got ripped off, but I'll try to get your money back for you.

Q And were those fellows mad?

A Yes, they were very mad.

Q And when they came into your trailer the next day, what did they do and what were you charged with?

A I believe it was about 6 o'clock in the morning Glen came into my room and woke me up and he said, "Your two friends are outside." Let's see, I opened the door and they pointed, I guess, three .38's, whatever kind of guns they have, and they said, "We're special agents with a search warrant. We're coming in." I said, okay. So I moved aside

and they came in and they searched the house.

Q Now, did they charge you with a crime, not what you are here on trial for?

A Yes, they did.

Q What did they take, what was the substance they said you possessed?

A We were charged with possession of methamphetamines with intent to sell.

Q And what box did they take of yours?

A What box?

Q Didn't they take some stuff out of your place?

A Yes, they did.

Q And what was it?

A What was the actual stuff they did take from our place?

Q Yes.

A Incense.

Q And did you spend some time in jail on that little charge?

A No, we didn't go to jail. We were held all day at the .DEA. Office in Rouses Point.

Q And what happened to those charges?

A All initial charges were dropped.

Q Because in fact it wasn't methamphetamine, it was incense, wasn't it?

A That's true.

Q Now, Mr. Snow, you knew nothing about these telephone conversations?

A No.

MR. HATCH: No further questions. Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. O'SULLIVAN:

Q Now, Mr. Snow, you testifed you did in fact meet Mr. Mangor on April 4th, 1975 at Menconi's Restaurant with Jules, is that correct?

A Yes, I did.

Q Do you deny telling Agent Mangor that you were going to New York City with your cousin, Glen, to acquire cocaine?

A Yes, I do..

Q Do you deny a conversation as to the quality of that cocaine?

A Yes, I do.

Q Do you deny offering to sell him some heroin?

A Yes, I do.

Q Do you deny telling him that Glen Snow as going to take out a bank loan for $600 to raise money to purchase this cocaine?

A Yes, I do.

Q Do you deny telling him about a male Puerto Rican going to New York to purchase the cocaine for you and Glen?

A Yes, I do.

Q Now, on April 18th, do you recall receiving a phone call from Agent Mangor?

A Could have been April 18th.

Q This phone conversation, you agreed to tell -- did you tell Agent Mangor that you would be traveling to New York City on about April 24th, 1975 to purchase two ounces of cocaine?

A I could have told him that, yes.

Q You could have told him that on April 18th?

A I don't exactly remember which date it was, no.

Q On April 23rd do you recall getting a phone call from Agent Mangor, on April 23rd, 1975?

A Stating what?

Q Wherein you tell him that you might be going to New York City to purchase cocaine and for Agent Mangor -- that is during the weekend of April 26th, and for Agent Mangor to call back April 25th to discuss the deal with Glen?

MR. FISHER: Your Honor, I object, respectfully. I know it is cross-examination but he is reading from the exhibit to the man here.

THE COURT: Overruled.

A I don't remember telling him that I was going to discuss anything with Glen, no.

Q You don't recall that on April 23rd, 1975?

A I recall a conversation with him. I don't know if it was April 23rd.

Q Pardon me?

A I recall a conversation with him but I don't remember if it was April 23rd.

Q Then do you recall phone conversations in May of 1975?

MR. HATCH: Your Honor, I object to that. That is way beyond even the face of the indictment.

THE COURT: Overruled.

Q Do you recall phone conversations in May of 1975?

A I may have had conversations with him in May of 1975.

Q Do you recall a phone call on May 6th stating that you and Glen would be going down to the city, or stating that you and Glen did go down to the city and picked up a half-ounce?

A Yes, I do.

Q On a previous occasion?

A Yes, I do.

Q Do you recall then telling him that you were going

to New York City and purchase cocaine for Agent Mangor yourself?

A Yes, I do.

Q Did Agent Mangor agree to advance you $650?

A Yes, he did.

Q On May 12th do you recall a phone call to Agent Mangor where you agreed to meet him at the Pyramid Mall so he could advance you the $650?

A Yes, I do.

Q Did you meet him there?

A Yes, I did.

Q And he advanced you the $650?

A Yes, he did.

Q On April 10th, didn't you testify that when you were on your way to New York City with Sam, I mean with Glen and Jules, that Jules tells you and Glen that this Paul is not his cousin but in fact a Federal agent?

A I believe the word "nark" was used, and yes, I do remember that.

Q And now your testimony is that you knew he was a nark and you were going to rip him off for $650?

A That's correct.

Q You did that intentionally?

A Yes, I did.

Q Now, you also testified about Federal narcotics agents coming into your trailer with drawn guns?

A That is correct.

Q Do you recall that your cousin, Glen, had a gun in his hand?

A Yes, I do.

Q And he was pointing the gun at the Federal narcotics agent, wasn't he?

A No, he was not.

Q What was he doing with the gun in his hand?

A He was sitting on the couch and the gun was laying beside him like this pointed at the floor.

Q Was it pointed at the floor when they entered?

A Yes, it was.

Q But he had the gun in his hand?

A Yes.

Q You testified that you were charged with possession of methamphetamine. Were you charged with anything else?

A Yes, I was.

Q Possession of any other controlled substance?

A Yes, we were.

Q What was that?

THE COURT: Come up here.

(The following was an on-the-record

discussion at bench).

THE COURT: I know there is no objection. There ought to be. Is this a conviction here?

MR. O'SULLIVAN: No.

THE COURT: You can't go into what he was charged with.

MR. O'SULLIVAN: He did.

THE COURT: You didn't object. You can't do it.

MR. O'SULLIVAN: Okay.

(Back in open Court).

MR. O'SULLIVAN: I have no more questions.

CROSS-EXAMINATION (continued)

BY MR. FISHER:

Q Mr. Snow, this $650-transaction that you testified to, did Glen have anything to do with that?

A No, he did not.

Q Was he part of it in any way, directly or indirectly?

A No, he was not.

Q Did he receive any of this $650?

A No, he did not.

Q This is something that was completely between you and this agent?

A Yes, it was.

Q And was this after April 11th, 1975?

A Yes, it was.

MR. FISHER: I have nothing further.

MR. HATCH: Your Honor, I have no further questions.

THE COURT: You are excused.

MR. FISHER: Could I be permitted, Your Honor, just one question.

THE COURT: Sure.

MR. FISHER: Thank you, Your Honor.

CROSS-EXAMINATION (continued)

BY MR. FISHER:

Q This matter that you were asked if you were arrested for some other charge when the officers came in your house, were you convicted?

THE COURT: I just had the three of you up to the bench about that.

MR. FISHER: The jury knows he was arrested. They don't know the conversation at the bench. I would ask Your Honor that the disposition be made aware to the jury. The U.S. Attorney asked the question.

THE COURT: All right, go ahead.

MR. FISHER: Thank you, Your Honor.

THE COURT: I take it you have no objection?

MR. HATCH: I have no objection, Your Honor. He wasn't convicted. It was dismissed because I had it on the record.

MR. O'SULLIVAN: Is Counsel testifying?

MR. FISHER: With Your Honor's permission --

BY MR. FISHER:

Q Was there any conviction?

A All the charges were dropped.

MR. FISHER: Thank you.

THE COURT: I would say to the jury, you can't consider anything having to do with earlier charges. Anybody can be accused of anything. It is only convictions that we are concerned with. Convictions can be considered by a jury in determining whether or not to believe a witness. That is one of the things you can take into account, if a person has been convicted of a crime. You cannot take into account whether or not he has been charged with a crime, and I have asked you and direct you and instruct you to put it entirely out of your minds. There weren't any objections here

to any of these questions. Had there been, I surely would not have permitted it.

MR. HATCH: Your Honor, on behalf of Defendant Samuel Snow, I rest.

THE COURT: You rest, Mr. Fisher?

MR. FISHER: Yes, Your Honor.

THE COURT: The Government rests?

MR. O'SULLIVAN: The Government rests, Your Honor.

THE COURT: All right, the jury will take a short recess.

(Jury leaves Courtroom).

THE COURT: All right, Mr. Fisher, do you have any motions?

MR. FISHER: Your Honor, I would respectfully like to move that in reference to the defense of Glen Snow, that the indictment be dismissed on the grounds that the people have failed to prove, as a matter of law, conspiracy here.

THE COURT: Denied.

MR. HATCH: Your Honor, I would like to make the same motion under Rule 29, move for a judgment of acquittal at the close of the entire case.

THE COURT: Denied.

Are You ready to sum up?

MR. HATCH: I am, Your Honor.

MR. O'SULLIVAN: Can I have a few minutes?

THE COURT: Are you ready?

MR. O'SULLIVAN: Can I have a few minutes?

THE COURT: We will take a short recess.

(A recess was taken).

THE COURT: All right, proceed.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs

GLEN A. SNOW and
SAMUEL J. SNOW,

Defendants.

SUMMATIONS

TRANSCRIPT OF SUMMATIONS in the above-entitled matter on the 8th day of October 1975 at a trial held before Hon. Lloyd F. MacMahon, United States District Judge and a jury at the Federal Building, Syracuse, New York.

APPEARANCES:

HON. JAMES M. SULLIVAN, JR., United States Attorney. By: Thomas O' Sullivan, Assistant United States Attorney.

J. RAYMOND FISHER, ESQ.
90 State Street, Albany, New York
Attorney for Defendant, Glen A. Snow.

LIVINGSTON HATCH, ESQ.
Keesville, New York
Attorney for Defendant, Samuel J. Snow.

MR. FISHER: If it please the Court, Mr. O'Sullivan, Mr. Hatch, ladies and gentlemen of the jury: This trial, even though three days, has been relatively short. On behalf of the defendant Glen Snow, I would like to tell you that we appreciate your attention, your patience because of interruptions that nobody can control, and we are well aware that you are going to do as good a job under your oath of office as jurors as possible here.

This is the opportunity which the defense, the defense for Glen Snow has to sum up the evidence here. I have to go first, Mr. Hatch second, and then the United States attorney will have the last opportunity to speak to you. The purpose of a summation is to give us an opportunity to tell you what we think and what our interpretation is of this evidence produced by the Government and also by the defense here. And anything that I say, I would like to tell you that it is your recollection of what happened on the witness stand that controls, not my recollection, Mr. Hatch's, Mr. O'Sullivan's or even the Court's. You people are the sole tryers of the fact. If I say anything that is not in accord with your recollection, sincerely, it is not an attempt to mislead you. It is only my honest

impression and interpretation of things. Your recollection and what everybody else says is their recollection, your collective recollection controls.

With that understanding, I would like to be able to state a few things to you in reference to this testimony here. I do not propose to, nor I can't comment to any of you people on what the law is in this case. That is 100 percent the province of the Court.

The charge of conspiracy, the meaning of the indictment, the meaning of the bill of particulars, these are all things which the Court will tell you about. But whereas the Court has the sole responsibility as to the law, you people have the sole responsibility as to the facts. In my comments to you on the facts, I would ask you to consider that there were really only four witnesses called here. And I think if you will recall, if you have been a juror before, the statement made to you in the selection of the jury that the burden of proof in this case rests on The People and it never shifts. We ask you to consider that in evaluating the testimony, the nature and extent and quality of the testimony offered against Glen Snow and against the other defendant.

Glen Snow is actually under no burden to prove anything. He took the stand and he testified.

THE COURT: Mr. Fisher, I hesitate to interrupt, but leave the Court's province on the law.

MR. FISHER: It has been charged here that Glen and Sam conspired to distribute coke between April 4th and April 25th of this year 1975, conspired to distribute coke. The testimony related to has indicated in the bill of particulars, certain overt acts. The overt act that we ask you to consider, the testimony of the parties that were there was a conversation between Glen Snow and this agent at Menconi's Restaurant in Ausable Chasm on April 4th, 1975; a conversation in the same restaurant between Samuel Snow on the same date, April 4th, 1975. That was the start of this alleged conspiracy, the conversation between Glen and the agent; the conversation between Sam and the agent on April 4th, 1975. In addition to that, we had evidence and an exhibit which I will comment on in a little while, a loan by Glen which was indicated by Mr. Lawrence from the National Commercial Bank. Then we have an alleged trip by the defendant or a meeting in a parking lot between Agent Mangor and Glen Snow, and

then lastly this trip to New York City. These are the overt acts, and the Court will tell you what they are, that have been charged as incidental to this indictment.

Now let us look at the evidence first of all from the point of view of the United States Government. You saw witnesses. You saw, you heard, you observed Agent Mangor sitting right here now. You heard his testimony. But when you recall his testimony as relates to Glen Snow, what did you actually hear in reference to a conspiracy to distribute coke? Was there any mention in his testimony of his conversation with Glen Snow, of his cousin Sam or of other people being involved? Take his testimony at face value. Glen and Sam are charged with this conspiracy. The testimony between the agent and Glen at Menconi's Restaurant on April 4th. Do any of you people, can you honestly recall the mention of the name Sam, the alleged other conspirator? Try and think.

Secondly, we have the testimony as to the second alleged overt act, the meeting with Samuel Snow. I think it is conceded when you evaluate the testimony that Glen Snow was not present, not present at the time of the alleged conversation

between Mangor and Samuel Snow.

I would ask you to consider the testimony of Mr. Votraw who was there sitting at the table for the 30 or 40 minutes this Mr. Votraw says this conversation lasted. They said that at the time Samuel Snow was intoxicated. I ask you, was there any conversation there in reference to Samuel Snow participating in an agreement with Glen Snow to go to New York and get coke for this agent there? Now, we can't use flashbacks like in the baseball game last night to see who is out or safe. We can only reconstruct it for you, The People and the defense, what happened from that witness stand there. It is the only way that you are going to know whether The People are correct in meeting this burden of proof or not based upon your evaluation of the testimony of the people that took the stand here to talk to you. We can't guess within the framework of the charge of the Court as to the law in evaluating the testimony. You must, as a matter of law, follow the Court's charge to you as to the degree and nature of the proof necessary in your deliberations.

Did you hear any conversations testified to between Glen and Sam in reference to any conspiracy

to distribute coke to this agent here in that restaurant, before that meeting, in the restaurant on several occasions with Glen and Sam, or subsequent? All the agent said is that he met the two men, that from Glen's point of view, Glen gave him a phone number. These are the first of the two overt acts. The next one was the bank loan. That has not been disputed here, that Glen Snow got a bank loan. And when you look at the copy of this bank loan that is in evidence, you will find that this is an exhibit that was offered by the United States Government and it says clearly on it, "Proceeds of loan to be used for purchase of stereo equipment."

This is an exhibit offered by the Government, not offered by us. You heard the bank officer testify that Glen had came in and signed this thing and he loaned him the money, that there was, in effect, these are my words, eight or nine, at least, transactions with that bank going back to 1971. There has been no testimony by this agent Mangor that they sat at the table and they arranged to go down to New York, that the financing would be done by a bank loan, that Sam and Glen were involved in this thing together, none of that. The bank loan was testified to by Glen Snow that he needed it and

he set forth the purposes that he needed it. I ask you to consider this bank loan. There has been no proof contrary to what Glen Snow said that for some time before this he had made arrangements to buy this stereo. He went down and made the application for the loan. It would have been an easy matter to say he spent the $600 on a stereo. He didn't. He put $400 in the credit union and then eventually used it for car payments and other things. Whether that was poor judgment on his part putting it in the credit union where there is a dispute in the interest of the credit union and the interest that pertains to bank loans, maybe there is an error in judgment there, I don't know. But assuming that this man made arrangements to purchase the stereo long before he met this agent, that he needed the money for that purpose, we submit to you that the exhibit should be taken at face value. And I ask you to consider that it was evidence of a loan, a legal loan for a lawful purpose. There has been no testimony by Glen that he talked to this man or admitted that he had any loan on the 4th for the the purpose of the trip later on. The application itself says April 9th, this application was made, and he has testified as to the purpose of the loan.

Now, the next thing the Government used to substantiate this was the allegation that there was a meeting in this parking lot. There was only two people at that meeting, Agent Mangor and Glen Snow. Assuming that the conversation was as the agent said that it was, we ask you to also consider the testimony of Glen Snow in reference to all of the circumstances surrounding the subsequent telephone conversations between Mangor and himself and between Votraw at Brewster, New York, and himself. We ask you to consider that Glen Snow had told the man in a proceeding in Court here, a conversation that he wanted nothing to do with any distribution of cocaine in New York. Perhaps it was a poor choice of words to say that is Sam's department or Jule's department. I guess it was Jule's department. There was nothing to indicate that Glen Snow was going to do this. The telephone conversation was that he wanted nothing to do with it. And if I recall Glen's actual words, "My life is at stake" or words to that effect.

You heard the testimony of Glen in reference to Votraw asking him to go along with this, to give the impression that he was going to do these things. You heard his testimony that he said get $200. There must have been a conversation between

Paul or Votraw and Mangor because if you listen to the recorded conversations that are in evidence by the Government here, seven or eight of them, "Did he tell you about it, that you needed front money? Yes."

You ought to assume that this was Votraw told Mangor that this $200 was needed.

Now, the next overt act charged after this parking lot conversation in the wide open, obviously where people can see you and all this, was the actual trip to New York itself, Brewster and then New York. We ask you to evaluate the evidence as to these five overt acts and the evidence on both sides, of the versions of what happened both on the telephone, in the parking lot and in New York.

I believe that it is significant here that Votraw is a person who had been arrested and had been in trouble with the law before, and for reasons which suited his own good purposes, he made contact with the Government agencies and agreed to introduce Mr. Mangor to the Snow brothers. I think it is fair comment that Mr. Mangor requested that this be done, that Mr. Votraw agreed to do it.

You have heard considerable testimony by this Mr. Votraw about the events in New York City.

You have heard the recorded telephone conversations that took place between the agent and Glen Snow. What about this Votraw person? You have had the recorded telephone conversations and you had an opportunity to study them. I assume that you will again have an opportunity to bring those recorded conversations into the deliberating room with you. And you have heard these statements on cross-examination by myself, by Mr. Votraw. Is there any question in your mind, and if there is, it can be read back to you, that Mr. Votraw is a person who gave this statement on September 22nd, 1975 to Mr. O'Sullivan, this 45- to 46-page statement? You heard his testimony that at the time he gave that statement, he was under oath, that under oath in answer to Mr. O'Sullivan's questions, he testified that the three people went to New York City, this is in answer to my questions, that he went to New York City -- may I change that? I'm sorry, I have got it reversed. That in answer to my questions read from that transcript, were you asked these questions and did you give these answers, he said in substance that he was in Brewster, that the two Snows picked him up and that they drove to New York City, that they went to this apartment on Riverside Avenue and that they were there for a

while, that this person named Cohen left. He came back a few times, indicating by gestures that nothing happened, and that thereafter they went to two or three other parties. Now, this is 46 pages under oath. And this man conceded to you on the stand that when he made that statement to Mr. O'Sullivan in answer to these questions, there were things that were in error, there were things that were wrong, there were things he willfully stated not to be true under oath, that part of the transcript of the testimony which disagrees with his testimony on the stand here where he was also under oath. It is up to you people to decide whether he told the truth on September 22nd under oath about nothing happening in this apartment, not seeing any narcotic drugs in this apartment, going to these other places, going back up to Brewster and the two Snows leaving the next day with no other reference to this co-employee buying anything, the coke and all the details -- I really won't marshal the evidence, but all of the details and what happened in this apartment in New York and the other two or three places. He said under oath to Mr. O'Sullivan that he did not see any narcotic drugs. He made no mention of the events in the motel. This same man testified in answer to

Mr. Hatch's questions that he was involved with the law, cooperating with the law, then comes in here and says he has a waiver of immunity and that this is what really happened, and he tells you a story about going to New York, the coke being there, watching it being cut up, put in bags and going up to Brewster and taking one of these bags out of Glen's pocket and selling it to a fellow employee of his.

I submit to you people in reference to the charge of distributing coke in violation of the United States laws, who is the real criminal not answering charges in this case? He admitted he was in the apartment in Brooklyn. He admitted he took some coke from there. He admitted that he distributed to this person who is a fellow employee of his and he admitted this employee paid him money for it. I wasn't there. I can't tell you what happened. I can only go by the testimony. But I submit to you people that you have your right to consider on the fact of his testimony that he made this arrangement with a fellow employee knowing that he was going to New York to this place in Riverside, that he needed the money to make this purchase for the fellow employee and that he got Glen Snow to get $200 from Mangor for that purpose. It is entirely

consistent with the testimony heard from this stand. They went to Brewster, the Snows, and by Votraw's own testimony on the stand, in the car on the way to New York from Brewster, Glen Snow gave him the $200. We submit to you that he used that money for the purpose of buying this coke or whatever it was in the apartment, and that he then sold it to this person in Brewster and then had enough money to give it back to Mangor and the other agent when he returned to the Ausable Forks area.

We ask you to consider also in this regard, Glen's testimony. There is no question, we don't deny he had the $600 on him when he went to New York, and there has been no dispute here. He had just gotten paid. He was a sergeant in the Air Force at the time and he had $300. That is $900. That is entirely consistent with the fact that he didn't need any money for anything, that it was Votraw that needed money, not Glen Snow. And what about this trip to New York? You heard the testimony, and I don't think any of the three people that were involved in it, Votraw or the two Snows dispute that originally, long before this agent made the scene, Glen Snow and Votraw were going to go to New York City. That had been planned long before any meeting

on April 4th will Votraw, Glen Snow and Mangor. They had arranged this, it had been planned, all set to do. They were not motivated by the request of any undercover agent or any informer to make a trip to New York. It had been planned, no dispute about it.

Now, the Government would have you believe that in some way following out this plan to go to New York was in furtherance of a conspiracy of some sort. If we can accept the testimony of the people that Glen Snow was going to go to New York and that he was going to pick up Votraw at Brewster where Votraw was staying and go to New York, and that they were going to be partying, meeting Agent Mangor had absolutely nothing to do with it, nothing. So where does the conspiracy develop about going to New York to get coke for this undercover agent? The men were on a trip which they had planned. What is significant in this case is, the Government would have you believe that the three of them were going down there for the purpose of purchasing coke, and that part of the coke was going to this Agent Mangor. Can you actually infer that from the testimony that you heard? From the people themselves, leave out inferences and guesses, and apply circumstantial evidence as the Court describes it to you when you get to the charge

as to the law. Glen told you that he invited Sam to go and that he talked to Votraw on the telephone and said, is it all right to bring Sam? Presumably, they were going to Votraw's motel in Brewster. He said yes. Even if we dispute that and say they had agreed all along to do it, where is the testimony of any conspiracy between these two men or agreement between Sam and Glen to go to New York together to purchase coke together and to distribute the same coke together to somebody else, specifically, this agent? Where is there such an agreement?

Now, I ask you to consider it. We have a voluminous transcript as testimony, that is the right word, I guess, of statements by this Mr. Votraw to Mr. O'Sullivan only a couple days or couple weeks ago, September 22nd. And you heard his testimony. There is nothing in that transcript to indicate that he ever told anybody of this meeting which the Government threw at you at the last minute wherein it was allegedly agreed that these three men said that they were going to New York City for the purpose of buying coke. There wasn't enough of an agreement on the two meetings at the restaurant. There wasn't enough of the agreement on the five conversations that are recorded, and there was not enough of the

agreement because of testimony in the parking lot to indicate an actual prearranged agreement by these three people to go to New York to buy coke. So for the first time during the course of this trial Mr. Votraw says on the stand that this agreement was there but he didn't disclose it to Mr. O'Sullivan until the time of this trial.

We respectfully submit to you that it was merely an effort to buttress up the Government's case by testimony that if it did exist, was never disclosed before. But presumably, the Government did make a thorough investigation, 46 pages here, many pages, grand jury testimony, statements of August 22nd by Mr. Votraw at the Government office at Rouses Point. Nothing about any prearranged agreement of these three men to go to New York and buy any coke.

Now, passing for the moment from Menconi's Restaurant to what about what other proof there is, we ask you to consider Mr. Votraw. Agent Mangor didn't go to New York. The only testimony that was apparently to buttress the Government's case is the testimony of Votraw. Votraw was the person, with his immunity, who under oath deliberately lied to Mr. O'Sullivan. It is your recollection as to what

he deliberately lied to. But what about his testimony? If he lied on September 22nd in this 46-page statement, we submit to you he could have lied on the witness stand here. What is in it for him? This is part of his deal with the Government. During this paying off is part of the deal against these two neighbors from Ausable Chasm.

What actual evidence of a conspiracy do we have so far? A man swore under oath he went to this apartment and these things happened. He swear under oath in Brewster these things happened. We ask you to consider the quality of the testimony of a known, acknowledged perjuror who never disclosed these things until this case was moved on September 22nd this year.

Now, as opposed from the testimony of Mr. Mangor and Mr. Votraw, if you consider their testimony alone and before anybody else took the stand, any of these defendants here, I hate to keep arguing the same point, but it is vital here. The Court will charge you as to the elements of conspiracy. But do you know of any agreement and do you know of any overt act by these two people except that, unfortunately for Sam, he was invited to go along? A conspiracy involves either two or more.

The only two we are talking about are these two boys sitting here. And what have The People shown you about any conspiracy between them? You may consider Sam going to New York as furtherance of the conspiracy, but what proof do you actually have to show that such an agreement ever existed other than the fact that Sam went to New York? Consider that. There is no testimony that he had anything to do with the $200, no testimony by The People of this proposed trip to New York to get coke, that Sam was profiting by it, benefiting by it, that he had any customers that were supposed to have anything from it. In fact, at the time of this trip, there is no testimony attributed to conversations between Sam and the agent that he was going down there, that Sam was going down there to do anything. Sam had the misfortune of going to New York if we can consider at face value the testimony of the prosecution here. Without two or more, you don't have a conspiracy.

Now, what about the testimony of Glen Snow? You heard his testimony. He is the defendant. He took the stand here and he testified. His version of the matters that happened is a direct opposite of what Mr. Votraw says, and in many respects, it is opposite to what Mr. Mangor says. So that there is

no misunderstanding here, these exhibits, these cassettes that were received in evidence, we agree the conversations took place. But the conversations took place between Glen Snow and this agent 100 percent, complete, totally and wholly 100 percent, completely, totally and wholly at the request of Jules Votraw. You heard Votraw himself say that this was being done initially as a favor to him. Now we are at the hard core material part of this whole lawsuit when we review the telephone conversations. I don't want any misunderstanding or dispute about it. You heard Glen Snow say he wanted no part of this with the agent, and you heard his testimony that was on a recorded cassette that was admitted into evidence here. When it was recorded, I have no way of knowing, but the fact is, there was a conversation that he wanted nothing to do with the guy but that he went along with this supposedly as a favor to Votraw. The Court, on one of the occasions where it took over or participated in the questioning of Glen Snow, got right to the point when it said, did you intend to ever buy this coke and give it to this agent. I ask you to recall the Court's question. That is the whole lawsuit. Did you intend to take this money and go to New York and make this purchase?

And Glen Snow said no. He said he did it, supposedly is the word, he did it as a favor to Votraw. And if you are going along with something, where is the telephone conversation, the four or five conversations, tapes, inconsistent with what Glen Snow said on the stand? There are conversations between Votraw and Glen that are not in evidence here. Whether they exist or are recorded, I don't know. And we claim there are conversations with this undercover agent where Glen wanted nothing to do with it. But in going along with this, with this perjuror and informer, seller of marijuana and all of these other things that he told you he was, a seller of coke, he asked Glen Snow to do this as a favor to him to make him look good with this agent. I think you can presume from that to make it look like he was cooperating with him.

Now, can there be any misunderstanding here? There is no claim that they went down and they tried to purchase things. You heard the testimony of Votraw himself before they got to New York before any of this so-called gestures and going to all these apartments and anything in New York, before any of that, according to The People's own witness, Votraw, Glen had given him back the $200. He gave him back

the $200 obviously because -- not gave it back, he gave it to him, obviously, because of one of two reasons, because he had obtained it in the first place at the request of Votraw because Votraw wanted it or because of the fact that he wanted nothing to do with the agent and he was only going along with this to please the agent or please Votraw and let Votraw explain the headaches of why he is coming back with the $200 himself. But in this case here, by The People's own testimony, the $200 was returned long before, in point of miles I assume, long before in point of time, these people ever arrived at that apartment in New York.

Now, bear in mind we are defending a charge of conspiracy to distribute cocaine that was supposed to have been initiated at the request of this agent. Obviously, under the law, in a conspiracy, you don't have to produce any coke in Court, but I ask you, what did Glen and Sam actually do with furthering any conspiracy at all? They were going to New York anyway, so they didn't go one mile outside of Ausable Chasm in furtherance of any agreement with Agent Mangor. They were going anyway. And as soon as he got to Votraw, and long before he got to New York, he gave him the $200. I think you

can infer from this, he had no intention of ever doing anything in New York for this agent here. It is not a question of shopping around in New York with the money in your hand trying to find someplace to buy it so he can bring it back up north to him. Before they did any shopping, if they were doing any, if you believe The People, it was returned.

Now, let's follow that just one more step, respectfully. Sorry you have to listen to me for so long. I appreciate your attention.

If Glen gave the $200 back in the car, what happened in the apartment? Why would Glen give the $200 to the agent? There is no testimony that in the apartment where any alleged coke showed up, the $200 was given to Glen to make the purchase. There was nothing like that. Votraw would have you believe that even though the money was given back to him in the car before they went to New York, for some strange reason, all of a sudden Glen didn't need that $200, but there is this coke. They are cutting it up. They put it in three little envelopes, put it in his pocket and back they go to Brewster. Where is the logic? It is The People's case that he needed $200 for this purpose, when, if it was done, Votraw never testified that he saw any money changing

hands, and obviously, the agent's $200 wasn't being used, if you listen to Mr. Votraw, because it was in his pocket. Glen had given it to him before he got there. But not withstanding that, they would have you believe that all of this cocaine showed up. This was never discussed by Votraw before his conversations with the Government, and all of a sudden it showed up. Glen paid for it, put it in his pocket and they left there. Why was the $200 needed at all? Think about that. This is a very vital part of this case. They lead you to believe that he needs $200. They get a tape recording of this thing and come in here and say that the $200 was needed because Glen was $600 or $200 short, yet they go down there and the agent testifies to watching the transaction while the $200 is in his pocket all the time.

We submit to you people that Glen's version is more consistent with the acknowledged facts. This man had an opportunity, this undercover perjuror, informer is a better word, had an opportunity to sell some stuff and he needed $200 to do it. Glen says when they went to this party he indicated there was a tin foil. I guess this Kevin came in and that was a transaction. In all honesty, I don't believe Glen said he saw money change hands.

You are practical people in this community here. Obviously, if the man got a tin foil and he has got some sort of a drug in it, we have to presume that it is cocaine because Votraw says that is what is down there. He needed the money to pay for it, and we say that the money that was used was the money which Glen Snow had returned to him before they got there.

Now, it is impossible to review all of this testimony and I am not going to do it. It is in evidence and you can consider it. It is very easy for you people to sit back and say these men must have done something, particularly Glen must have done something or he wouldn't be here. I don't think Glen is a saint. You heard the testimony in reference to his using marijuana. You heard his testimony as to purchasing marijuana from this Votraw. We don't claim he hasn't done whatever is illegal in reference to marijuana, but he is not on trial for that. You heard testimony about a guy named Samuels. Samuels was never produced in Court here. They asked you, did you ever sell some coke to Samuels and he said no. Samuels was 100 feet outside that door, brought down here by The People from Dannemora and never produced in the courtroom to dispute that.

Glen Snow said he never sold anything to Samuels. If there's any question, find out for yourselves. He was 100 feet away and never produced by The People, been here for the last two days.

When we start talking about Samuels -- or not Samuels, but Sam Snow, you heard the testimony about the $650 rip off. I don't think anybody claims here that Glen Snow had anything to do at all with this so-called rip off. The testimony was that Mr. Sam Snow had telephone conversations on April 18th or April 23rd with the agent. This agent never took the stand and he is still here today and could have been called to the stand to say that Glen in some way had something to do with that. Sam Snow testified that the agent gave him $650 of United States Government money after all these events that we are in Court defending these men on here today. If the Government had all of the information it had at its disposal on April 11th after they came home from Brewster and after the last of these recorded telephone conversations, Exhibit Number 5, up to that point, why didn't they proceed? The crime was apparently committed, the details are over. To quote Mr. Mangor, the investigation was terminated by a search warrant. They continued, but not with Glen. They

gave Sam $650.

Now, I ask you to apply your own common sense. Would an experienced Government agent give someone $650 and get nothing in return and not be mad enough to do something such as dig up this trip to New York and call it a conspiracy and arrest these people? $650 he gave Sam. That transaction had nothing to do with Glen. He got nothing for the $650. If you are giving somebody $650, where is the recording of any conversations in reference to that in this courtroom? You heard Sam's testimony, and this agent was never put on the stand to deny it. He gave the guy $650 thinking he was going to get some coke as an undercover agent. The $650 is gone. How does he explain it to his superiors? What if Sam said, I need $1500 or $2,000? I am not judging Sam on whether he did or did not, in this rip off or runaround, whatever it is, didn't do something that was morally wrong. But you have got the Government agent flashing all this money and offering to give it to you to do these things. Why are we so surprised that this man took it and said sorry? If he did go and buy coke, he would be defending a second charge here.

There is nothing to indicate that the

reason we are in Court here today is because Sam took this $650 which my client had absolutely nothing to do with.

Anything else that I say to you would be cumulative or repetitions, but I think the run-about, about the $650 is a vital part of the reason we are here today. If we are trying to consider a course of conduct between Glen and Sam to indicate by inference or circumstantial evidence that either relate in some way in these operations, is there anything at all about the 650-dollar rip off to connect it with Glen? All of the conversations in the restaurant, the conversations in the parking lot, the conversations on the telephone, nothing about an agreement involving Glen and Sam. But at the last minute, The People's witness says that the three of them are going to go to New York to buy coke. Nowhere did they give that story anywhere else, and that story was given by the acknowledged perjuror, Mr. Votraw.

It is difficult to talk to you people as long as I have and try to give the impression that my recollection is positive. We are all human beings. We are not machines or computers. I have to reiterate. It is your recollection that counts.

But if you consider that these men, and particularly my client, charged with certain things in the indictment, certain overt acts set forth in the indictment which has no probative value, it can't be used as evidence, they are charged with these events relating to this agent, and reduced to its utter simplicity, what do we really have? The taking of $200, the giving it back, in Court here today on a charge of conspiracy to distribute to this agent. Conspiracy to distribute what? You have heard all of the testimony. I can't anticipate what Mr. Hatch or Mr. O'Sullivan will say, but nobody can change the facts. Where is the agreement? Thank you very much.

THE COURT: It is quarter of 1. We will now break for lunch until quarter of 2. Don't talk about the case with anybody else. Don't let anyone else talk about it with you.

(A luncheon recess was taken.)

(Proceedings continue.)

THE COURT: Proceed.

MR. HATCH: Ladies and gentlemen of the jury, I have not had an opportunity to speak to you directly, and I don't think I was ever formally introduced. My name is Livingston Hatch. I am an attorney from up near the Canadian border, a small

town up near Plattsburgh, and it is a privilege to be down here in Syracuse in this Court.

Now, I am going to make my summation as short as possible and come directly to the point. I represent Sam Snow on the assigned counsel, assigned by Judge Foley who is also a District Court Judge. And I have appeared for Mr. Samuel Snow in this case as a member of that program.

Now, what has the United States Government proven concerning Samuel Snow and his involvement in this so-called conspiracy? Well, the Judge, of course, is going to give you all the instructions, and I am sure he will give you sufficient instructions and clear so that you can make the proper determination. But I want to ask you, in looking at the facts, is Sam Snow -- you have to look at the facts. Has there been any proof here when this conspiracy was formed? Was it two weeks before April 4th, was it April 4th? Was it in the car from Brewster to New York City? When was it formed? The Government has charged from April 4th to April 25th. Their own witness gets on the stand who, of course, as Mr. Fisher indicated, he admitted perjury. Mr. Mangor, he knew nothing about some meeting, or he never testified about some meeting that took place two weeks

before between Votraw and Glen Snow. And Mr. Votraw testified to this, so the question comes, when was this thing formed?

The next question is, find out, work at the evidence, of course, your recollection is the one that controls, when did Sam Snow become a member of this conspiracy, when? You heard Mr. Votraw. If you believe -- if you don't believe anything Votraw says, then we ought to all go home, but if you believe anything Votraw says, this man was drunk on the 4th. He didn't hear what was going on. When did Mr. Samuel Snow become a member of that conspiracy? That conspiracy of Jules Votraw and Glen Snow? When did he become a member? Now, I believe the Court will instruct you as to an agreement, what, you know, the agreement concerned in a conspiracy. It isn't like a contract. I am sure you are not going to find that Sam Snow and Glen Snow and Jules Votraw sat down and drew up a contract and said this is what we are going to do and enter into it with Benny Mangor. That is not what it is. You have got to take the facts. The Court will instruct you on the law. Taking all the facts together, the competent evidence, not can you manufacture an agreement today, but was there an agreement sometime between April 4th and April 25th, 1975 to do what they

have charged. Well, I say no, but that is your memory of the facts. It is the facts, not what the U.S. attorney puts together as to the agreement itself. Did it exist at that time? Now, carefully look at the evidence, please. Sam Snow, there is nothing, not one scintilla of evidence, but mere association with a cousin of his in a small upstate town that puts him on this April 4th, 1975 transaction or alleged transaction.

Then what did Mr. Samuel Snow do to further the conspiracy? Did he answer the phone in a local bar? Does that make him a sinister individual? You could have been sitting down at Joe Menconi's bar at the end and picked up the phone. Ausable Forks is a very small town. Is Glen there? There probably isn't five Glens in the whole town. And maybe you have been down here, then maybe you would be down here as part of the conspiracy. He answered the phone. He said, what's happening, and I'm sure that some of us have teen-aged children and they have their own language that exists, their own special terminology. He could have said what is going on or what is happening, and that is just what he said. So as far as the telephone conversations are concerned, they certainly didn't make him part of the conspiracy

with that telephone.

Then you take the facts that are undisputed that he asked his cousin if he could go to New York with him. That is unrefuted. And he went to New York. There were conversations between Glen and Votraw, and Sam went down. Did he have any money? Was he part of that loan? Did he cosign that note? He was working. He didn't. He wasn't a part of that transaction. He says he wasn't part of the transaction two weeks before. He says, and the Government's star witness tells us that he is drunk. He is inebriated. He can't even make sentences. And then he goes in the car to New York City. I say it is a mere association with not one fact to tie him to the crime, or the alleged conspiracy. Then in New York he overhears this conversation. The Judge is going to instruct you, and I am sure he will instruct you that this is a criminal case. It is not a civil case for monies had or received, breach of contract. What did he do? He got on that stand and he told you that he met a guy, Benny Mangor, and he saw an opportunity to make some money. Can you imagine? He reached into his pocket and gave Sam Snow $600 in United States currency. He didn't buy the drugs. He didn't do anything affirmatively.

He shot his mouth off over the phone. Now, isn't it very interesting, Mr. O'Sullivan introduced an ear-plug, a thing that goes on the end of the phone, and then he introduced the tape recorder, this is my tape recorder that I used to tape the conversation. It worked the other day, didn't it, right in this courtroom? It worked, but obviously, it couldn't work April 18th, April 23rd, April 25th, May 6th, May 15th. All these conversations, isn't it quite interesting that all we have is the bad things that are said, not the good things? I am sure that in Champlain they didn't run out of tape cassettes or did the United States Government run out of tape cassettes?

So basically, as far as the facts concerning the $650 that Sam got from Benny Mangor, no accusation that that $650, there is no charge that he is part of a conspiracy to distribute drugs on that. You are going to get the facts. So that $650, if I were to believe that Sam was a very highly moral person and what have you, that would be a different fact, but he got the money from the U.S. Government agent. Then going back, there's going to be an instruction, I am sure the Judge will give you that instruction as to interested witnesses. Well, Mr.

Votraw is a very interested witness.

Now I want you to look at the little two-page statement that is in evidence. My defendant's name is mentioned, but that is it, nothing else. If you look at that, no conspiracy could have existed, no part of a conspiracy could have existed because of what that statement says. And you will notice when those facts were given.

Now, if you look at Jules -- I am assuming that he is, he got on the stand and he told you he is a goddamn liar, that is what he told you, a perjuror. That is a nice word for a liar. So he said, "I'm telling the truth now." What did he say? "I don't use cocaine." And what did he say in cross-examination? "I had some I was saving, I had a spoonful." Did you hear the U.S. attorney ask any of these fellows about the drug vernacular? Never mentioned it, but the Government witness knew what a spoonful was. The Government witness told you that now I am telling the truth, I am laying my soul out here. He ought to. He got a piece of paper that said he could tell anything and you are not responsible for anything that arises out of it. He said a spoonful. He lied to you again. He lied to us, he lied to you and he lied to the Judge. He said he never

used coke before but he had some there and he used it for his own personal use.

Now, if you think about it, who is the only man that distributed drugs in the northern district of New York, which is in Ausable Forks? Who had it in his possession on the 11th of April? The Government witness, this nice honest citizen. It is difficult to understand why this Government witness perjured -- a goddamn liar, that is what I call him. His memory gets better as time goes on, where I thought your memory is supposed to fail as time goes on. Did he by any chance, did he have notes to refer to to refresh his recollection? You will remember that he did say that he had notes. He had that statement when he gave this statement. He didn't have any notes here, but did you notice his demeanor? Did you notice his demeanor when he testified on that stand? It was like a song orchestrated, back and forth, I did this and I did that. Don't you think he might have memorized this statement and added those things which were convenient for him? He should have been able to tell the story, how many times he has told it. He told it to the agent once, he told it to Mr. O'Sullivan and then he came here and told it. How many other times did he tell this

statement to people? Isn't really his testimony something cold and manufactured and subject to the rules of recent fabrication if he is telling the truth at all? He doesn't have anycloak, he didn't have anycloak around him, any badge on him on April 4th and April 10th, or whenever it was. He didn't have anything. He was just like them, just like us average citizens. He wasn't exempt under the federal laws to possess narcotics. So he is guilty of a crime. But you don't see his name here. Was he not part of that conspiracy, was he not part of that conspiracy? I am sure the Judge will instruct you how you have to handle his testimony.

Basically, what I ask you ladies and gentlemen to do, and I want you to look at these people's lives, and I want you to look at your position and obligation, as the Judge will tell you about, as a juror. The Judge is going to tell you about a lot of elements, what crimes are, various rules he is going to give you.

For Sam Snow, I ask you, which you gave your solemn word to Judge McMann, to follow the rules, listen to the law, forget about drugs and forget about pot and all this other stuff, forget about that. You are here to try the facts in a case involving

a conspiracy to violate a certain section. These men, just like those federal agents, just like that Judge up there and you ladies and gentlemen, have the right to be judged by your peers, to be tried by your peers and not to be tried for some ethereal thing he may have done because he smoked a joint. He is to be tried for the facts in this case. And if you say, well, he smokes marijuana, therefore he had to be -- I ask you, I'm not asking you to be sympathetic to these defendants because they are young boys going to college, I'm not asking you to do that. The Judge is going to instruct you about that. I am asking you, just like your children, that you would not condone them doing something wrong, but you would want them to be judged fairly and honestly. That piece of paper that they are charged with, he will tell you what that is. But that piece of paper doesn't make him a hideous criminal. It alleges a part of a conspiracy. You take the facts, you put them together, and if you can, find he is part of the conspiracy.

Now, the Judge is going to tell you it isn't going to be a written agreement. Like I said, put the facts together. There has got to be a synopsis, there has got to be a connection. There

has got to be something if there is no connection, and there is no connection. Listen to the testimony. I ask you ladies and gentlemen to be fair and honest, and I am sure that when you come back and you have had a chance to review these facts and all this evidence, the elements of this crime are not there, and I ask you to bring back a verdict of not guilty on behalf of Samuel Snow, not guilty of the conspiracy to distribute the drugs that are charged in this indictment. I again thank you very much. You are an extremely patient jury and I would like to get out to Syracuse as often as I can. It is a pleasure to have you as a jury on my case. Thank you very much.

THE COURT: Mr. O'Sullivan?

MR. O'SULLIVAN: Your Honor, Mr. Fisher, Mr. Hatch, members of the jury: I simply want you to consider the Government's evidence.

Did Glen Snow and Samuel Snow agree to distribute cocaine? Consider their statements and their actions. What do they indicate? Consider the testimony of Agent Mangor who testifies that on April 4th he meets Glen Snow who agrees to sell him a half ounce of cocaine. Later on the same night he meets Samuel Snow who tells him that he is going

to the City, to New York City with Glen Snow to get some cocaine, and he tells him that Glen Snow is taking out a bank loan for $600 to purchase some cocaine. And consider the fact that later on on April 9th, Glen Snow does take out a bank loan for $600. Consider the testimony of Jules Votraw that he and Glen Snow and Samuel Snow went to New York City to acquire some cocaine where in fact they do acquire some cocaine. And later on they in fact sell some of that cocaine to another through the informant, Mr. Votraw, who obtains $350 and he gives that $350 to Glen Snow who puts it in his pocket, and later on Glen Snow gives Mr. Votraw some cocaine. And all this, the acquisition of the cocaine, the sale of the cocaine and the distribution of the cocaine to Mr. Votraw by Glen Snow is all done in the presence of Sam Snow. The Government submits that there is ample evidence to show that there is an agreement between Glen Snow and Sam Snow to distribute cocaine.

Now, is there any doubt that Glen Snow is distributing cocaine? Again, consider the testimony of Agent Mangor who says on April 4th Glen Snow agreed to sell him a half ounce of cocaine. And then on April 4th, Glen Snow gave him his phone number which is Government's Exhibit 1, and told him to call

him on Wednesday, which would have been April 9th, to consummate this deal to sell the half ounce of cocaine to Agent Mangor. If you believe the testimony of Glen Snow, he says that April 4th he didn't want anything to do with that deal. Sometime later he is induced to get into it by Mr. Votraw. He is induced to pretend he is a drug dealer, but he gave him his phone number on April 4th, not sometime later. He gives his phone number to the agent to call him on Wednesday, April 9th, and the agent did call him on April 9th, that is not disputed. That is in Government Exhibit's 4, 5 and 6, the transcripts of phone conversations the agent has with Glen Snow. Then the agent testifies later on he talks to Sam Snow and Sam tells him about the loan agreement. And later on he takes out a loan. You have the testimony of Mr. Lawrence from the National Commercial Bank. You have Government Exhibit 7, 8 and 9 which reflect the bank -- what is the date of that? April 9th. What is the date that Agent Mangor testifies that he met Glen Snow in the parking lot at Howard Johnson's in Plattsburgh? April 9th. And on April 9th Agent Mangor testifies that Glen Snow tells him that he was only able to raise $600. What is the amount of the loan? $600. And then the Government

Exhibit 4, 5 and 6, the phone conversation on April 11th between Agent Mangor and Glen Snow? It reflects that it is sometime prior to April 11th he told Agent Mangor that he had $600 which he was going to use to purchase cocaine. When did he tell him that? Agent Mangor says he told me that on April 9th in the parking lot. Glen Snow says I don't remember when I told him that.

Now, consider Mr. Votraw's testimony that Glen Snow calls him and requests $200. He says he needs $200 to purchase the cocaine. Consider the testimony of Agent Mangor in the phone conversations between Agent Mangor and Glen Snow on April 9th, Government Exhibit 4, 5 and 6, the tapes of those conversations and of transcriptions, where Mr. Glen Snow is representing that he needs $200 to complete his deal and Agent Mangor agrees or arranged to meet him somewhere in the parking lot of Howard Johnson's and give him that $200, and in fact, he does meet him in the parking lot of Howard Johnson's and he does give him the $200, and Glen Snow doesn't dispute that. He testified that that is exactly what happened.

And consider Glen Snow's own words as depicted on Government Exhibit 4, 5 and 6, the tape, or the cassettes and the transcript of those phone

conversations made on April 9th and April 11th between Agent Manger and Glen Snow. Consider the language, "front money, cop an ounce, that will be 650." He didn't say that will be 200. Glen Snow say that will be 650. Agent Manger says two from 650, so I owe you 450. I owe you, Glen, $450. He didn't say I owe Jules $450 as if Jules was getting in the cocaine.

Consider the conversation on April 11th, 1975 after they returned from New York City where they are still negotiating a deal. "Will you do anything in the future, are you going to be able to cop an ounce? Yeah, I'll get it all arranged ahead of time." That is what Glen says in that conversation, he will get it arranged. His testimony would be that on April 10th he says he doesn't want anything more to do with it and on April 11th he promised to get him another half ounce of cocaine and on April 10th he knows he is a narcotics agent and he is promising to get him another ounce of cocaine or half ounce of cocaine to someone he knows is a narcotics agent.

It is submitted that the evidence overwhelmingly establishes the charges against these two defendants. It shows the agreement between Glen Snow and Samuel Snow to distribute cocaine. It shows

the meetings of April 4th, 1975 and the agreement by each defendant to sell Agent Mangor one-half ounce of cocaine. It shows that Glen took out the bank loan and it shows the reason for it, to purchase cocaine. It shows that Glen requested the $200 and the agent advanced it to him to purchase cocaine. It shows that the Government's evidence has proved everything that is alleged in the indictment, every single thing. But you may also consider the testimony of Mr. Votraw who testifies that Glen and Sammy Snow not only went to the City to acquire cocaine, but they actually acquired it, three-quarters of an ounce, that Glen picked it up from the table after they had cut it and then they went to Brewster, New York, and using Jules as -- or Mr. Votraw, the informant, as a middleman, they sell a quarter of an ounce of that three-quarters of an ounce to another for $350.

MR. FISHER: I object to that, respectfully, your Honor. The U.S. attorney is using facts not in evidence. There has been no testimony that either of these defendants sold anything to anybody in Brewster.

MR. O'SULLIVAN: The testimony of Mr. Votraw is that he arranged to sell it for them.

THE COURT: It will be the jury's

recollection of the evidence that controls.

MR. O'SULLIVAN: And then later on Glen Snow gives Mr. Votraw some cocaine. And the acquisition of cocaine, the sale of the cocaine, the further distribution of cocaine by Glen Snow is all done in the presence of Sam Snow. Now, that evidence is not necessary to prove the charge against these two defendants. But what does it show? It show that they were actually distributing cocaine.

Now, to meet the Government's evidence, the defendant Glen Snow represents that he was pretending to be a narcotics dealer. He testifies he gets a phone call from Agent Mangor, or Agent Mangor is inducing him to get him some cocaine, and he is saying it is only simple possession to you, but it is my whole life, my whole life is at stake. And then later on he is pretending to be a narcotics dealer. And even after he knows that Agent Mangor is a narcotics agent, he is pretending to be a narcotics dealer, risking his life.

The defendant Sam Snow says that he was ripping off Agent Mangor even after he knows Agent Mangor is a narcotics agent. He is ripping off Agent Mangor. That is the defense.

Now, you can consider the testimony that

Mr. Votraw was lying when he made this statement to me in my office on September 22nd, 1975, and he has admitted in Court that he was lying when he gave me that statement. But he represented to you in Court emphatically that now he is telling the truth. Ask yourselves, why would he lie to me initially and tell the truth now. If you believe the testimony he gave here, Mr. Votraw was in the very same conspiracy as Mr. Glen Snow and Mr. Sam Snow, so when he talks to me on September 22nd, obviously, he's not going to tell me that. But he represented he told you the truth when he testified in Court before you because as both defense counsels indicated, he is protected from prosecution.

You can also consider the testimony that Officer Mangor is a liar or a sissy, for whatever that is worth, a man who puts his life on the line every day as an undercover agent. But you all saw him in Court and you all heard his testimony and watched his demeanor, and moreover, you heard his testimony verified by those phone conversations, Government Exhibits 4, 5 and 6. Ask yourselves what purpose does Agent Mangor have here in lying. Did that federal agent come into this Court and perjure himself? Is that believable?

MR. HATCH: Your Honor, I object. He doesn't have to bolster his witnesses.

THE COURT: Overruled. Don't interrupt.

MR. O'SULLIVAN: Is he trying to make an arrest record? Is he seeking a vengeance for being ripped off for $650, and to do that is he going to perjure himself in Court? Does that make sense? If he wanted to set these guys up, would he be testing incense under the misapprehension that it was methamphetamine, or would he have planted the methamphetamine? His motive was vengeance? But he is confronted by Glen Snow with his gun, and what does he do? Nothing, simply arrested him.

Now, if you simply apply the evidence, the testimony of Agent Mangor, the testimony of Mr. Votraw supported by the Government exhibits, Exhibit 1, Glen's phone number given to Agent Mangor, Government Exhibits 7, 8 and 9, the bank loan, Government Exhibits 4, 5 and 6, the phone conversations, you take this evidence and apply them to the law as the Court will instruct you and you must find Glen Snow guilty as charged and you must find Sam Snow guilty as charged. And I thank you.

THE COURT: We'll take a very short recess, then the Court will charge you.

(Jury leaves courtroom).

THE COURT: Mr. Hatch, I don't think you are aware of the fact that it is improper for assigned counsel to tell the jury that he is assigned. This is the second time you have done this. You did it last June in Auburn, the same thing. Don't do it again. It has nothing to do with the merits of this case.

MR. HATCH: I'm sorry, Your Honor, I didn't know.

(A recess was taken).

CERTIFICATION

I, George T. McGlone, Official Court Reporter for the United States District Court in and for the Northern District of New York, do certify this to be a true and accurate transcript of the stenographic record of the foregoing taken at the time and place noted in the heading hereof.

George T. McGlone
Official Court Reporter
United States District Court
Northern District of New York

Albany, New York
November 12, 1975

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs

GLEN A. SNOW and
SAMUEL J. SNOW,

JURY CHARGE

Defendants.

TRANSCRIPT OF JURY CHARGE given by Hon. Lloyd F. MacMahon, United States District Judge in the above-entitled matter on the 6th day of October 1975 at the Federal Building, Syracuse, New York.

APPEARANCES:

HON. JAMES M. SULLIVAN, JR., United States Attorney, By: THOMAS O'SULLIVAN, Assistant United States Attorney.

J. RAYMOND FISHER, ESQ.,
90 State Street, Albany, New York
Attorney for Defendant, Glen A. Snow.

LIVINGSTON HATCH, ESQ.
Knoxville, New York
Attorney for Defendant, Samuel J. Snow.

THE COURT: It now becomes my duty to instruct you on the law that applies to this case. And as I have told you in other cases where you have served with me during this month, it is your duty to accept the law as I give it to you whether or not you agree with it, and apply it to the facts as you find them. In short, you and you alone are the exclusive judges of the facts. You and you alone decide what weight, what effect and what value you will give to the evidence. You decide whether or not to believe a witness and, of course, ultimately, you decide whether or not each of these defendants is guilty of the crime of conspiracy charged in this indictment.

Now, you are not to conclude from any rulings that I have made throughout this trial or any questions that I have asked or any remarks that I made, that I have any opinion one way or the other as to the guilt or innocence of either of these defendants. That decision is exclusively up to you.

Now, finding the facts is merely a process by which you, the jury, consider all of the exhibits which have been received in evidence, consider the testimony of all of the witnesses, sift out what you believe, weigh it in the scale of your

reasoning powers and your common sense and draw such conclusions as your common sense and your everyday experience tell you the evidence supports and justifies and decide just where the truth lies in this case.

Now, in this connection, all evidence is in two general types, direct evidence and circumstantial evidence. Evidence is direct when the facts are shown by exhibits which are admitted into evidence or when sworn to by witnesses who have actual knowledge of what they have seen or what they have heard.

Circumstantial evidence simply means drawing a logical inference or conclusion from other connected facts that have been seen or heard. It is a practice that we all use in our daily lives and the process is no different here, drawing a logical conclusion from another connected fact. If you are sitting in the living room and you hear a jar fall on the floor and crash and you go out and you see that your two-year-old grandson is out there with marmalade all over his face, you don't have to be a genius to figure out who knocked the marmalade jar off the table. So here you draw the logical and natural conclusion.

No greater of degree of certainty is required when evidence is circumstantial than when

it is direct, for in either case, you must be convinced beyond a reasonable doubt before you can find a defendant guilty.

Now, it is your memory of the evidence that controls here. It is not the way I remember it, not the way the lawyers remember it. If your memory squares with what the lawyers tell you what their version of the evidence is, you may accept what they said to the extent that your memory accords with theirs but if you have a different view of the evidence, a different recollection of it, you are bound by your oath to reject what they said and rely on your own memory. Now, when I say rely on your own memory, I mean your collective memory, the memory of you as a body here. So if one of you can't remember the evidence, I'm sure that one of your fellow jurors can help you refresh your recollection. But if he can't and in the end you need to hear any of the testimony, then, if you will send me a note through your foreman or forelady specifying carefully and in particular what you want, we will have the court reporter read it back to you. But bear in mind that that is a time-consuming process and don't do it unless you need to do it.

Now, one of your most important functions

is to determine where the truth lies. It is your exclusive function to decide which witnesses you will believe, and this is so as to every witness whether called by the prosecution or by the defense. You are not to be influenced by the number of witnesses. You are concerned not with the quantity of the evidence, but with the quality of the evidence. The first test which you should apply in determining whether to believe a witness is to measure what he says against your plain everyday common sense. You are not bound to believe unreasonable statements or to accept testimony that defies your common sense, or worse, insults your intelligence just because the statements are made on a witness stand in a public courtroom.

I saw you observing these witnesses as they testified. In deciding whether to believe a witness, you should consider his manner on the stand. Obviously, you were sizing these witnesses up. How did the witness impress you? Was he giving you a straight story? Was his version clear and frank? Was he concealing some evidence? Was he just parroting answers? Does the witness have any motive to testify falsely? How strong or weak was his memory of important events? Did he forget the

unforgettable? Can you rely on it? Can you trust him? Did he show any bias or prejudice for either side in this case?

You ought to consider also his opportunity to know the facts that he is telling you about and the probability or improbability of what he said. How does his testimony add up when you consider it with all of the other evidence and the other testimony? How does his story check out against the documentary evidence in the case, against the immutable evidence in the case? Are there any inconsistencies in his testimony? And if so, how important are they? Has he made some inconsistent statement in sworn testimony or in his statement on some earlier occasion? And if so, how important are those inconsistent statements? And if they were inconsistent statements, what was his motive in making them?

In determining whether there was any inconsistency in a prior statement, you should consider not only what he said in the prior statement but what he left out.

Julian Votraw testified here, and if you believe his testimony, he was a participant in the very conspiracy with which these defendants are charged. And if so, he was an accomplice, and you

should consider that fact in testing his credibility and in weighing his testimony. Obviously, a witness is not incapable of telling the truth about what occurred just because he is an accomplice. But you must examine his testimony with special care and act upon it with caution.

In the prosecution of a crime, the Government is frequently called upon to use persons who are accomplices. Often it has no choice. They are properly used. After all, the Government must rely upon witnesses to transactions, whoever they are, otherwise in many instances, it would be difficult to ferret out and to detect and to prosecute wrongdoers. And this is particularly so in cases of conspiracy. Frequently it happens that only those on the inside of the scheme can give evidence which is material and important to the case, because only those on the inside are likely to be in a position to know.

There is no requirement that the testimony of an accomplice be corroborated. By that, I mean backed up or supported by other evidence. You may convict on the testimony of Votraw alone if you believe him. The credibility of Votraw, like that of all the witnesses, is for you and you alone to determine,

taking into account, any interest that he has in this case, any motive that he may have to testify falsely, any hostility he may bear toward either of these defendants, any inducement or consideration he may have received or hope to receive from the Government, and any other evidence which you recall which may reasonably be considered by you to influence and color his testimony.

Now, each of the defendants testified as witnesses. Neither was required by law to do so, and his appearance as a witness was entirely voluntary. If the defendant did not testify, his failure to do so could not have been considered by you in any manner in determining his guilt or innocence. But, having chosen to take the stand and to testify in his own behalf, the law requires that his testimony be judged and appraised by the same standards applied to the testimony of every other witness, giving consideration, of course, to his background, to his personality, and to his natural interest in the outcome of this trial.

Now, if you find that any witness has deliberately and willfully lied with respect to any material fact in his or her testimony offered at this trial, you may follow either one of two courses. You may accept as much of the witness's testimony as

you believe, or if you wish, you may reject his entire testimony.

Now, before discussing the crime charged here, I want again to remind you that an indictment is a mere accusation. It is not evidence of the truth of the charge made, and you are to draw no inference of guilt from the mere fact that a defendant has been indicted.

An indictment simply means that the defendants have been accused. Each defendant has denied the charge made against him here. The defendant, however, has no burden of proof to sustain in this case. Neither of them is under any obligation to produce any witnesses. Each is presumed to be innocent, and this presumption of innocence continues throughout the trial and during the deliberations of the jury. The presumption of innocence is overcome when and only when the Government establishes the guilt of a defendant beyond a reasonable doubt.

Now, as the phrase implies, a reasonable doubt is a doubt that is based upon reason, a reason which appears in the evidence or in the lack of evidence. It is not some vague speculative, imaginary doubt, nor a doubt based upon emotion or sympathy or prejudice or upon what someone might regard as an

unpleasant duty.

The Government is not required to prove a defendant's guilt beyond every possible doubt nor to an absolute or mathematical certainty, because such measure of proof is usually impossible in human affairs.

Review all of the evidence as you remember it, sift out what testimony you believe, discuss it with your fellow jurors, compare your view of the evidence with that of your fellow jurors. If that process produces a solemn belief or conviction in your mind such as you would be willing to act upon without hesitation if this were an important matter of your own, then you may say that you have been convinced beyond a reasonable doubt. But on the other hand, if your mind is wavering or so uncertain after going through that process that you would hesitate before acting if this were an important matter of your own, then you have not been convinced beyond a reasonable doubt and your verdict must be not guilty.

Now let us turn to the specific charge in this case. The defendants here are charged with violating the federal narcotics laws which, in pertinent part, provide:

"Any person who . . . conspires to . . . distribute, or possess with intent to . . . distribute cocaine . . . ." shall be guilty of a crime.

The indictment here charges that Glen A. Snow and Samuel J. Snow, the defendants on trial before you, together and with others to the grand jury unknown, conspired to violate the federal narcotics laws.

Now, bear in mind that you must consider each defendant separately. There is no such thing under our system of justice as guilt by mere association. The guilt or innocence of each defendant on trial before you must be determined separately with respect to him solely on the evidence presented against him or the lack of evidence.

Now, in order to convict a defendant whom you are considering, the Government must prove to your satisfaction beyond a reasonable doubt each of the following three elements. One, the existence of a conspiracy from on or about April 4th, 1975 to on or about April 25th, 1975 for the purpose of knowingly and intentionally distributing cocaine or possessing cocaine with an intent to distribute it.

Two, that the defendant whom you are considering joined the conspiracy with knowledge of

its unlawful purpose.

Three, that any one of the conspirators, whether or not a defendant on trial, committed at least one overt act in furtherance of the conspiracy.

Now let's discuss these elements.

The first element of the crime is the existence of a conspiracy.

Now, what is a conspiracy? A conspiracy, for our purposes, is simply a combination or an association or an agreement among two or more people to accomplish an unlawful purpose, in other words, to commit a crime. Here the crime charged in this indictment is a violation of the federal narcotics laws. The crime is complete when the unlawful agreement or combination is made whether or not the purpose of the conspiracy is ever carried out or accomplished. Thus, a conspiracy is kind of a partnership in a criminal purpose, and each member of the conspiracy becomes the agent of every other member of the conspiracy.

The gist of the crime is not the actual possession or actual distribution of cocaine, but the agreement or the combination to distribute cocaine or to possess cocaine with an intention to distribute it.

Now, when I say there must be an agreement, a combination or an association to violate the law, I do not mean that two or more people must sit down and sign some kind of a formal agreement or that they must sit down and agree orally in so many words that they were going to violate the federal narcotics laws, or how they are going to carry out their scheme.

When persons enter into a conspiracy or a combination to violate the law, they would be fools to do that sort of thing, rather, much is left to implication and to tacit understanding. Conspirators do not shout their plans out loud or advertise in the newspapers what they are going to do The very nature of a conspiracy calls for secrecy and intrigue.

The first element of the crime is satisfied, therefore, if you find beyond a reasonable doubt that any two or more people -- now, here it doesn't have to be these two defendants. You will note that this indictment says that these defendants conspired with other persons whose names are unknown to the grand jury. Any two people who conspire to violate these narcotics laws, provided these defendants joined that conspiracy, and I will come to that in a moment, is sufficient. So if you find that any two persons combined or agreed to violate

the federal narcotics laws as charged in this indictment, then you may find that the conspiracy charged did exist.

To repeat it again, if you find beyond a reasonable doubt that any two or more people in any way intentionally combined, associated together or agreed to a common plan knowingly and intentionally to distribute cocaine or to possess cocaine with an intention to distribute it, you may find that the first element has been established.

Now, determining whether there was such a combination, understanding or agreement, you should consider all of the evidence about each of the defendant's conduct and all of the transactions that you have heard in this case and the acts and statements of each of these defendants.

Actions speak louder than words. You should, therefore, ask yourselves whether these transactions were handled out in the open in a straightforward manner or were they hidden and devious. Were the words used clear, unequivocal, unambiguous, or were they purposely words, code words of some kind that meant something only to those who knew what was going or You should also consider whether they made the usual business records that are kept in

transactions or whether they dealt in large amounts of cash and currency, and if so, why. You should consider any evidence which you recall and believe as to the way a defendant conducted these transactions and whether his dealings were open and aboveboard or whether they were surrounded by secrecy and intrigue which are the hallmarks of a conspiracy.

From the point of view of the law, there is a danger to the public when two or more people join together or combine to break the law. The danger is greater than if a lone criminal acts by himself, because in numbers, there is strength. And when people combine to accomplish crimes, the crimes are likely to be more difficult and more harmful to the public. Because of this, a conspiracy to commit a crime is a distinct crime, in and of itself, separate and apart from the crime which it is the object of the conspiracy to accomplish. Thus, you may find that a conspiracy exists, although the purpose of the conspiracy is never accomplished.

Here, as I have told you, there need be no proof that any cocaine was ever possessed or distributed. It is enough if there was an agreement to deal in it. The agreement itself is the gist of the crime. Proof, however, that cocaine was possessed

or was possessed with an intention to distribute it is the most persuasive evidence of a conspiracy itself.

Now, the period of time charged in the indictment runs from on or about April 4th, 1975, to on or about April 25th, 1975. It is not necessary for the Government to prove that the conspiracy started and ended on those specific dates. It is sufficient if you find that a conspiracy was formed and that it existed for some substantial time at or about those times and within the period set forth in the indictment.

You will recall that the second element of the crime which the Government must establish beyond a reasonable doubt is that a defendant joined the conspiracy with knowledge that its purpose was to distribute cocaine or to possess cocaine with an intent to distribute it. Now, when I say joined a conspiracy, I do not mean that the defendant has to come up and say, hey, let me in on this, or he doesn't have to file some kind of an application for membership However, before one can be found to be a member of a conspiracy, he must know of the existence of the conspiracy. That is, he must know that other persons have combined or joined together to violate the law and he must knowingly and voluntarily join in that

scheme and that venture with an intention to combine with others in violating the law.

Now, you will note that I have said that the defendant must have acted knowingly and intentionally. This does not mean that a defendant must be aware that his conduct is criminal or against the law or that he is violating Title 21 of the United States Code 841A. All it means is that he was acting voluntarily and deliberately and on purpose, and that he must have known what he was doing and he wasn't acting because of mistake, accident, carelessness or other innocent reason.

You will also note that the indictment charges the words "willfully, knowingly and unlawfully." This means that the defendant must have known what he was doing, that he consciously did the prohibited acts, and that he intended to commit those acts. An act is willful if it is done knowingly and deliberately. Unlawful simply means that he is doing something contrary and prohibited by law.

Here again, in determining the intent of a defendant on the question of whether he knowingly became a member or joined the conspiracy, it is obviously impossible to look into his mind. However, intent and knowledge may be inferred from the way

the defendant acts, by his statements and all the surrounding circumstances.

Now, the mere fact that a defendant may witness a crime or be present when a crime is committed by others or that he attends a meeting or that he unwittingly assists a conspiracy or associates with or has friendship or relationship or even a business dealing with another member of a conspiracy is not in itself enough to make him a member of a conspiracy unless you first find beyond a reasonable doubt that he knew of the conspiracy and that he intentionally joined with knowledge of its unlawful purpose.

If you find, however, that a defendant did join the conspiracy with knowledge of its illegal purposes, then he is bound by what others say and do after he joins provided what others do is in furtherance of the objects of the conspiracy. And this is so even though that defendant is not present provided he is still a member of the conspiracy.

You will remember that I told you that a conspiracy is a partnership in a crime and in criminal purposes, and therefore, every member of the conspiracy is a partner of every other member, and every partner is bound by the acts of every other

partner.

Now, what one does to promote the illegal plan or the illegal agreement thus binds every other member of the conspiracy.

In deciding whether a defendant joined a conspiracy, you must base your decision not on what others may have said or done, but only on what the defendant himself said or did. In other words, on the question of membership in a conspiracy, you can only consider a defendant's own actions, his own conduct and his own statements.

I want to say again that all the conspirators need not even be acquainted with each other. They may not have previously associated together in any way. They may not know the identity of all of the other conspirators. One may become a member of a conspiracy without knowledge of all of the details or all of the operations of the conspiracy. One defendant may know only one other member of a conspiracy. Yet if he knowingly cooperates to further the criminal object of the conspiracy with knowledge that others have joined together and combined to violate the law, he becomes a member, although his role may only be an insignificant or subordinate one.

Now, the third element of the crime

is the commission by any conspirator of at least one overt act in furtherance of the object of the conspiracy.

Now, an overt act is not a term with which most of us are familiar. An overt act means an act by any member of the conspiracy in an effort to carry out or to accomplish some purpose of the conspiracy. The reason the law requires proof of an overt act is because a person might agree to commit a crime and then change his mind. Therefore, before a defendant can be convicted of conspiracy, one or more of the conspirators must have taken at least one step or performed one single act which moved directly toward carrying out the unlawful intent to commit the crime.

Now, the Government has alleged four overt acts, and you will note upon reading the indictment which I will send in to you, that some of these acts are innocent in and of themselves. For example, overt act three on or about April 9th, 1975, the defendant Glen A. Snow obtained a loan in the amount of $600 from the National Commercial Bank and Trust Company located in upper Cornelia Street in Plattsburgh, New York. I don't need to tell you that it is no crime to obtain a loan from a bank.

But if you find that that act occurred and that it was done in furtherance of the purposes of this conspiracy, getting the money to use it to further the objects of this conspiracy, then that is sufficient. In other words, any one of those acts performed by any member of the conspiracy during the existence of the conspiracy and in furtherance of its purposes, then those acts are sufficient to satisfy the third element.

I want to caution you that the Government is not required to prove all four overt acts. It is enough that the Government proves beyond a reasonable doubt that at least one of the overt acts was committed in furtherance of the purposes of the conspiracy by any one or more members of the conspiracy. Again, you will note that the indictment charges that these overt acts were committed on or about a certain date. The Government does not have to prove that the act happened on the exact date alleged. It is sufficient if you find that the day mentioned in the testimony is within a few weeks of the date alleged. The same is true as to the places mentioned in the overt acts. They must be substantially similar.

Now, as I told you, you must consider each defendant separately. If, as to the defendant

whom you are considering, you find that the Government has failed to prove beyond a reasonable doubt all three elements of the crime of conspiracy as I have defined them, then you must acquit that defendant. On the other hand, if, as to the defendant whom you are considering, you find that the Government has proved beyond a reasonable doubt all three elements of the crime of conspiracy as I have defined them, then you should convict that defendant.

Obviously, the proof must be beyond a reasonable doubt as to all three elements.

You are instructed that the question of possible punishment of a defendant in the event of a conviction is no concern of yours and it should not enter into or influence your deliberations. The duty of imposing sentence in the event of a conviction is the job of the Court. The function of the jury is to weigh the evidence in the case and determine the guilt or innocence of each defendant solely upon the basis of the evidence.

Now, when you retire to the jury room you will elect one of your number to serve as a foreman or forelady to speak for you. Treat one another with consideration and respect, as I know you will. If differences of opinion arise, your discussions should

be dignified, calm, intelligent. Your verdict must be based on the evidence and the law. The evidence which was presented in this case as you remember it and the law as I have given it to you in this charge. You are each entitled to your own opinion. No juror should acquiesce in a verdict against his individual judgment. Nevertheless, no one should enter a jury room with such pride of opinion that no matter how convincing or intelligent the argument of the fellow juror or jurors, he would refuse to change his mind.

Discussion and deliberation are part of our American jury process, and your deliberations should be approached in that spirit. Talk out your differences. Each of you should, in effect, decide the case for himself or herself after thoroughly reviewing the evidence and frankly discussing it with your fellow jurors with an open mind and with the desire to reach a verdict. If you do that, you will be acting in the true democratic process of the American jury system.

There are 12 of you on this jury. The alternates will be excused before you retire for your deliberations. Any verdict must be the unanimous verdict of all of you and it must represent the conscientious conclusion of each of you.

I submit the case to you with every confidence that you will fully measure up to the oath that you took as members of the jury to decide the issues submitted to you fairly and impartially and without fear or favor.

Now, members of the jury, if you find that the Government has failed to establish the guilt of the defendant whom you are considering beyond a reasonable doubt, that defendant should be acquitted. If you find that that defendant has not violated the law, you should not hesitate for any reason to render a verdict of not guilty as to him. But on the other hand, if you find that the Government has established the guilt of the defendant whom you are considering beyond a reasonable doubt, you should not hesitate because of sympathy or any other reason to render a verdict of guilty.

Are there any exceptions, gentlemen? If so, I will hear you up here.

(On the record discussion at bench.)

MR. FISHER: Your Honor, in reference to your charge, on the question of the testimony of Votraw alone, I believe you stated that you may convict on the testimony of Votraw alone if you believe his testimony. I would request, or I except to that charge,

respectfully, unless your Honor adds if you believe his testimony as to the unsupported matters beyond a reasonable doubt.

THE COURT: No. Your request isn't precise and clear to me. Do you mean there must be corroboration?

MR. FISHER: No.

THE COURT: What do you mean?

MR. FISHER: I mean that as to Votraw's testimony, if they accept it, your Honor stated that to convict on his testimony alone if they believe him. I believe the degree of proof is if they believe the unsupported testimony beyond a reasonable doubt.

THE COURT: No.

MR. FISHER: What if they just believe it?

THE COURT: That is all they have to do is believe it. You don't have to believe a witness beyond a reasonable doubt. I don't know where you heard that law.

MR. FISHER: You said on his testimony alone.

THE COURT: No. I know what your exception is.

MR. FISHER: Exception. Secondly, your

Honor, respectfully, I do not believe you gave a definition of reasonable doubt to the jury.

THE COURT: I did.

MR. FISHER: Exception, respectfully. And lastly, I would request a charge. This is not an exception, it is a request to charge, that the indictment itself has no probative value.

THE COURT: I charged that in substance. I know what your exception is.

MR. HATCH: I join in those exceptions.

THE COURT: The jury may now retire for their deliberations.

(Jury retires at 3:23 p.m.)

(Jury enters courtroom)

THE COURT: We will adjourn now until tomorrow morning at 9:30. You will return and resume your deliberations at that time.

Don't let anybody talk about the case with you or don't you talk about it with anyone. Wait until you are assembled in the hury room. Good night.

(Recess).

CERTIFICATION

I, George T. McGloine, Official Court Reporter for the United States District Court in and for the Northern District of New York, do certify this to be a true and accurate transcript of the stenographic record of the foregoing taken at the time and place noted in the heading hereof.

George T. McGloine
Official Court Reporter
United States District Court
Northern District of New York

Albany, New York

November 13, 1975

OCTOBER 9th, 1975

(Jury enters Courtroom at 11 a.m.).

THE CLERK: Ladies and gentlemen of the jury, it is my understanding you have agreed upon a verdict, and if so, how do you find and who shall say for you?

JUROR, SEAT NO. 4: Your Honor, we, the jury, find the defendant, Glen Snow and Samuel Snow guilty as charged in the indictment.

THE CLERK: Your verdict, ladies and gentlemen of the jury, the Court has recorded. You say you find the defendant, Glen Snow, guilty and the defendant, Sam Snow, guilty as charged, and so say you all?

(Affirmative replies from jury).

THE COURT: I want to thank you very much for the careful attention you gave to this case and to all the other cases which we have worked on over the past month. I very much enjoyed my visit to Syracuse. I went to school here as a young man a hundred years ago, and now, of course, I am a Judge in New York. But it is always good to get back upstate, get back up home. I come from Elmira originally and very much enjoyed working with this jury panel and with the lawyers who

appeared before me in these cases. It is quite a contrast to New York where we go at a much faster pace because it is such a great volume of work. But we don't have a handicap of jurors having to come from 90 miles away, and that prevents trying as many cases as we do in New York, but I thought you would be interested to know that all told here, we have terminated some 30 cases why with pleas of guilty and trials, 30 criminal cases and 30 civil cases which have been settled as well, so we had a very productive month. That could not be accomplished if we didn't have a jury and a judge here ready and able to go to trial. Unfortunately, no matter how much we try, most cases aren't settled on the civil side nor are there guilty pleas until the very last minute. They reach the day of truth when they have to go to trial, and that sometimes means that you seem to be unemployed, but that was true, you were waiting in the wings. I was here taking those pleas, negotiating the settlements with lawyers.

I think it is a very great experience to serve on juries. Juries are a very essential part of our judicial system, and as a lawyer practicing some 25 years before I went on the bench,

I would have preferred to try my case before a jury than the best judge that ever lived.

I have great confidence in the jury system and I find that they don't very often go wrong. And one of you, I know, had a toothache during the trial and I wasn't able to help you there because we only had one alternate, and it is a terrible loss if we reach a mistrial because something happens to one juror. If there is ever anything like that wrong with you when you are being picked on a jury, bring it to the judge's attention so that he has a chance to do something about it before you get nailed into the jury panel.

I know there have been instances in New York, people sometimes will be suffering from some rather severe illness and not say a thing to the judge and get on a trial, and sometimes a trial will last for months, and then have something flare up while they are deliberating, and then have a mistrial. That is a terrible burden on everybody, on the prosecution, on the Government and on the defendants who have to pay for the privilege of going through another trial.

I certainly have enjoyed working with you. I hope you have a very nice fall.

Thank you very much. You are dismissed.

(Jury leaves Courtroom).

THE COURT: Do you have any motions?

MR. HATCH: Yes, Your Honor, I have written down a motion which is on --

THE COURT: I can't hear you.

MR. HATCH: I said I have written out a motion in longhand on behalf of both defendants, and I feel that it is under Rule 34 of the Federal Rules of Criminal Procedure. And I have set forth certain reasons why I feel that the judgment should be arrested. And my contentions are, and I think the papers speak for themselves, and I would appreciate Your Honor giving us the opportunity to have you read them and make a ruling accordingly.

THE COURT: Do you join in this motion, Mr. Fisher?

MR. FISHER: Yes, Your Honor, I respectfully ask the Court's permission to enter these.

THE COURT: Well, let me finish reading this.

I deny your motion. The principal ground being that you never raised these points at

Motion Slip + Mdl Motion
U.S.D.J.

420

United States Distrect Court
Northern Distrect of New York x 75-CR-82

United States of America

Motion under
FRCP 34

-V-

Glen Snow and
Samuel Snow

x

State of New York
County of Onondaga

Lawrence L Hatch being duly sworn
deposes and says.

1. that I am the attorney for
Snow and I am familar
with all facts and circumstances.

2. this motion is made to arrest
judgment against defendant

3 the basis for this motion are
as follows:

a) the Court failed to charge

the jury with beyond reasonable doubt instructions.

b) the Court changed the prosecution's theory of the conspiracy with its instructions.

c) the Court created a conspiracy that did not exist by his instruction.

d) the Court was without jurisdiction in this conspiracy.

e) the Court created a single conspiracy theory when it such have instructed as to a multiple conspiracy.

F) the proof of this case did not conform to the pleadings.

G) the U.S. attorney used other crimes to proof the crime charged

H) agent Mangone manufactured testimony

4. as to 3a, the record speaks for itself. a review of the instructions given will show that the court never charged "beyond a reasonable doubt" and the reasonable doubt was inadequate.

5. as to 3b, the court had an indictment charging two defendant. U.S atty presented a case to an Albany grand jury on theory that the Snows were the conspirators and the informant was working for the government. the court allowed testimony of Votraw to show that Glen Snow, Samuel Snow and himself would go to N.Y.C. to get some cocaine. all the time, he was working for the government. He could not have had the necessary intentions to form the conspiracy.

II the first conspiracy created 2 weeks before 4/4/75, was terminated on 4/4/75 when the government and Votraw agreed to cooperate the necessary intenein to form a conspiracy was absent and no overt act in furtherance had taken place

II the second conspiracy created on 4/4/75 showed no wilful

of had the necessary intent to violate the law and form the conspiracy. the conspiracy was not existing because of the lack sufficient parties to form a conspiracy. Samuel independent influence with Mangone and Votraw did not create the intentions for and to join the second conspiracy with Glen Snow plus there were no acts in furtherance of it.

III the third conspiracy, Votraw, Glen and Sam Snow was formed in the trip from Brewster, N.Y. to N.Y.C. that conspiracy was formed in the Southern District of N.Y. and was completed there. the lacks jurisdiction of this ct.

IV the fourth conspiracy, Sam Snow and Mangone lacked the elements of a conspiracy.

Annexed made a part of this application is a copy of the Grand Jury Minutes of June 25, 1975

6. as to 3c, the instructions already created a party to the conspiracy who could not have had the necessary intents since he was working for the government
7. As to 3d, see ¶ 5 III.

8. as to 3e, the court said starting from 4/4/75 — 4/25/75, there was a conspiracy. the Jury can not

as a part of the single conspiracy. 429

9. as to 3F, the Court must look at the pleadings and compare the proof. It will see that pleading and proof do not conform. the Government has gone beyond the scope of the pleadings creating surprise

10. as to 3G, U.S. atty used the sale by Votaw as means of showing scheme, design and propensity. Other crimes are in the record that should not be there.

11. as to 3H, if the government maintance it single conspiracy theory, the testimony of Mangore is wrong. On Page 24-25 of the Grand Jury minutes, Mangore in response to a question asked by the a Grand Juror the word "Cocaine" was never used. Mangore testified that on 4/4/75, the word "Cocaine" was used. Mangore testified to runaround by his witness. the government Agent created testimony to create the Conspiracy.

12. the indictment should be dismissed because the record shows testimony of Prior convictions or arrests of these defendants. see pages 34-36 this shows the prejudices before the Grand Jury.

13. No previous application has been made.

45

(5)

Wherefore, your deponent request the conviction be set aside and the indictment be dismissed and such other further relief the court deem proper

Dated: October 9th 1975

Augusta S Hatch

Swoin before me
this 9th day of
october 1975

Mary Jules
Notary Public
County of Albany
Comm. Expires

RECEIVED
AUG 25 1975
Albany, New York
United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

- against -

GLEN A. SNOW and SAMUEL J. SNOW,

Defendants.

----------x

75-Cr-82

Proceedings in the above-entitled matter were held before a federal grand jury empanelled at Auburn, New York, in the Federal Courthouse, at Auburn, New York, on June 25, 1975, at ten o'clock a.m.

Exhibit

APPEARANCES:

HON. JAMES M. SULLIVAN, Jr., United States Attorney for the Northern District of New York, Federal Building, Syracuse, New York, By: THOMAS J. O'SULLIVAN, ESQ., Assistant U. S. Attorney, Of Counsel, appearing in behalf of the United States of America.

- - - - - -

BENNY MANGORE

called as a witness before the Grand Jury, being first duly sworn by the Foreman of the Grand Jury, was examined and testified as follows:

BY MR. O'SULLIVAN:

Q Will you state your full name and spell it for the record?

A Benny T. Mangore, M-a-n-g-o-r-e.

Q By whom are you employed?

A Drug Enforcement Administration.

Q How long have you been so employed?

A Five and a half years.

Q Where are you now stationed?

A District office, Rouses Point, New York.

Q What are your duties?

A To enforce federal narcotic laws.

Q Were you involved with that investigation of one Glen A. Snow and Samuel J. Snow which led to the suspicion that said Glen Snow and Sam Snow were involved in a conspiracy to distribute controlled substances?

A Yes.

Q Are you familiar with the action of the Bureau with respect to that investigation?

A Yes, I am.

Q Wereyou an active participant in that investigation?

A Yes, I was.

Q What was your function with respect to that particular investigation?

A I was the undercover agent.

Q Can you tell us what led to this investigation, what led you or the agency to suspect that these two individuals were bring in narcotics?

A We received information from an informant.

Q Had you dealt with this informant before?

A Personally, myself, no.

Q Was he known to be a reliable informant by the Drug Enforcement Agency? Had any information given to you before ever led to a successful prosecution?

A Not that I know of.

Q Do you know whether or not this informant has ever been

convicted of any crimes?

A He was arrested for one. I am not familiar with the conviction. It was by the New York State police.

Q Do you know whether or not this informant is under indictment or awaiting sentence on a prior conviction?

A He may be. I don't know.

Q Is it your understanding that he is cooperating with law enforcement agencies in order to extricate himself from some difficulty he has with the law?

A Yes, I know that.

Q Has the Drug Enforcement Agency or yourself or anyone you know of made promises to the effect that he is going to be helped in this endeavor?

A Not to my knowledge.

Q To your knowledge there is no federal crime pending against this particular informant?

A That is correct.

Q That is a State problem that he has?

A Correct.

Q What did his information reveal with respect to Glen Snow and Samuel Snow?

A After the interview was made?

Q I mean prior to that. He comes into the office and approaches somebody and says "I have some information for you".

A O.K. Let me see so I don't confuse anyone here. He made contact with Agent Fitzpatrick at which time he said he had information relating to the Snows travel to New York City with a quantity of cocaine and bringing it back into our district and distributing the same.

Q Did you arrange a meeting with Glen and Samuel Snow with the informant for the purpose of seeing whether they would sell you some drugs?

A That is correct.

Q Can you tell us about that meeting, how it came about?

A On April 4, 1975, I was introduced to Glen Snow and Samuel Snow in AuSable Forks, New York, at which time I ---

Q Let me get this clear. Where did this meeting take place?

A In AuSable Forks, New York, in Marconi's restaurant-bar.

Q And you went there with the informant?

A I went there with the informant.

Q And while there you met who?

A Samuel Snow and Glen Snow.

Q Were they both together when you met them?

A No. First I met Glen Snow. Later on in the afternoon I met with ---

Q Let's stick with the first meeting. You met Glen Snow?

A Yes.

Q And there was a conversation?

A There was a conversation.

Q Tell us about that conversation.

A After I was introduced conversation ensued in which Glen A. Snow said he would be driving to New York City in a few days to purchase a quantity of cocaine. I inquired as to the quantity and purity of the cocaine which Glen Snow replied he would be purchasing the cocaine for two hundred fifty to three hundred dollars an ounce, and also that the cocaine was pure stuff right off the rock and also claimed that it came off the boat.

Glen Snow then asked me what quantity I would be interested in purchasing. I said I would be interested in purchasing an ounce, to which he replied he would only sell me a half ounce in the original transaction because the remaining half ounce had been committed to other people.

At this time Snow also volunteered to show me how he got the cocaine. He then gave me a telephone number and instructed me to call him later on that week, to determine the meeting place to consummate the deal.

And the meeting between myself and Glen Snow terminated with the agreement I would pay him between six and seven hundred dollars for a half ounce of cocaine. That was my meeting with Glen Snow.

Q Now you went there particularly to meet Glen Snow? It was arranged that you were going to meet him there?

A Yes.

Q And it was arranged through this informant?

A Yes.

Q And he introduced you as ---

A A potential buyer.

Q Buying what?

A Cocaine. Specifically cocaine.

Q You say he gave you a telephone number. What was that number?

A 648-8261.

Q Did you later determine whose 'phone number that was?

A Yes, sir, we did.

Q Whose 'phone number was it?

A Through investigation the 'phone number is a 'phone that is at their place of residence, and was listed to a James H. Snow. The 'phone was not listed to Glen.

Q Do you know who James H. Snow is?

A We determined it is a relative of Glen Snow.

A Do you know how they are related?
A I am assuming that is his father.
Q But you don't know for sure that is his father?
A No. Because we never made any inquiries. In a small community like that it ---
Q He gave you the 'phone number to call, and you were to call to arrange a meeting to exchange money for the drugs?
A Yes.
Q After he acquired the cocaine from wherever he gets it?
A Correct.
Q Then he left the restaurant?
A Then he left the restaurant, yes.
Q What did you do?
A I stayed there with the informant.
Q Then what happened?
A Approximately a half our after Glen left, Samuel J. Snow entered Meconi's restaurant and immediately came over to the table occupied by myself and the informant. After I was introduced to Samuel Snow a conversation ensued about the pending trip of Glen Snow to New York City.
Q Now this pending trip, that is the trip that you just talked to Glen about?
A Yes.

Q Where he indicated he was going to go to New York City to get cocaine?

A Yes.

Q And now you are talking to Samuel Snow and he tells you about the same trip?

A Right. He states he is also going to New York City with Glen Snow and he reiterates that the cocaine is good stuff, stating that it had crystal in it and that it was right off a kilo lot. Sameal Snow states he himself has a good connection for heroin and would I be interested in buying Skag. I inquired about price and he quotes a price of eighty dollars.

Q Does he say anything about his relationship with Glen Snow?

A I can't recall if he mentioned it right then and there but they are cousins.

Q Does he say anything that would indicate that he and Glen are working together to acquire this cocaine?

A You have to excuse me because I have to go through my notes. This was along drawn out process. I see one of my reports to you on the question of relationship where Samuel Snow says he lives in a mobile home with Glen Snow.

Q He indicates that they live together?

A Yes.

Q But was anything said about Glen?

A He states Glen was planning on taking a bank loan on April 7, 1975 before going to New York City. And he also stated how they go about purchasing the cocaine in New York City.

Q Does he say anything else about the cocaine, after they get the cocaine how they are going to distribute it?

A My contact with Samuel Snow terminated with the agreement that I would meet with the two Snow cousins later or next week to finalize the transaction. Meet with both of them.

Q Your testimony is that he told you Glen was going to take out a bank loan?

A Correct.

Q And he was going to use that to purchase the cocaine?

A Yes.

Q And you were going to buy it from him?

A Correct. Or part of the cocaine he was going to acquire in New York City.

Q He indicated how they go about acquiring the cocaine in New York City?

A Yes, he did.

Q What did he say?

A They said they gave their money in advance to a Bart Regan who goes to Harlem and he at that time purchases

cocaine or herbin for the Snow cousins.

Q And that was the substance of the conversation you had with Samuel Snow?

A Yes.

Q Then what happened? Did he leave or you leave?

A O.K. Then later on in the evening I left with the informant.

Q Were you the only agent there?

A No. I had agents who are surveilling -- on surveillance. There was one agent in Marconi's at the time and later on another agent entered Marconi's during the meeting. But there was one agent at the time I entered the restaurant.

Q There is an agent in the restaurant observing the meeting that you had with Glen and Samuel Snow?

A Correct.

Q Was there any other agent involved?

A Right. There was another agent involved with me.

Q Where is he?

A Part of the time he was outside and then he came in later on during the meeting. I can't recall exactly when he came in but I believe he came in when I was conversing with Samuel Snow.

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Q When did you next contact either Glen or Samuel Snow?

A I contacted them by reference to the 'phone number on

April 9th. I telephoned Marconi's restaurant in an attempt to contact Glen or Samuel Snow.

Q Let me interrupt. He gave you a particular number to call?

A Right. He gave me his home 'phone number and in trying to reach him on his home 'phone number there was no answer, so I tried Marconi's because that is where they socialize, and that is where I called on April 9th at five ten p.m.

Q You contact either one of them at this time?

A At this time I called up Marconi's and the individual who answered the 'phone, I told him who I am looking for and who I was.

Q Was this 'phone conversation taped?

A Yes, it is taped.

Q Do you have a transcript of that tape?

A Yes.

Q Why don't you read us what that is, deleting any obscenities.

A (Reading): An individual answered the 'phone by the name of Dave. I said "Is Glen Snow or Sam Snow there?" Dave said "Who is this?" I said, "Tell him Paul is on the 'phone." Dave said, "Neither of them are here, ah, but Glen said to call this number."

[illegible] to call that number" and he said "Yes."

I said, "Who are you?" And he said, "Dave".

"Oh, Dave. Okay, Okay. What number?

"Dave: 647-8242."

I repeated the number. Dave says "Right" and I say, "Is that their house number?"

"Dave: No. He is somewhere. He is at dinner."

And I say "Oh, he is at dinner? Okay."

"Dave: But he said you called or came in to call that; okay?

And I say, "Okay, good enough. Thanks a lot, Dave."

And he says "Yea. Take care." And I said, "Chow".

Q So this Dave said Glen left another number at Marconi's for you to call?

A Yes.

Q Did you check this 'phone number?

A Yes.

Q Who was the subscriber on that 'phone number?

A That number, I recall, that is the 'phone number of his parents' residence - 8242.

Q What is the name? Do you have a name?

A It is listed to a James H. Snow, Blackhook, New York. This listing was verified with the telephone company and that is the same James H. Snow to whom their residence telephone number is listed to.

Q This is the same James H. Snow on both numbers?
A Yes.
Q Did you call that number?
A Yes.
Q Did you get in contact with Glen or Sam?
A I got in contact with Glen.
Q And that 'phone conversation is also taped?
A Is it is.
Q Do you have a transcript of that conversation?
A Yes.
Q Synopsize it.
A I talked to Glen and he said he had some problems and he would like two hundred dollars advanced to him and then we made arrangements to meet approximately about one and a half hours from the time I talked to him on the 'phone, where I would advance the two hundred dollars for the cocaine.
Q Does he mention "cocaine" in that conversation?
A I asked him at that time, later on in the conversation, I asked "Are you going to be able to bring me a little stuff or what in regards to the two hundred dollars I am going to advance to you?" And he says, "No, not right now." He didn't really want to talk on the 'phone because he was at a different residence. And the 'phone conversation terminated.

Q The substance of that 'phone conversation was that you were going to have a meeting somewhere else?

A Yes.

Q At which time you were going to front him or give him two hundred dollars?

A Yes.

Q In order to buy this cocaine?

A Yes.

Q What date are you talking about now?

A April 9th.

Q Did you meet him on April 9th?

A Yes, I did. I met him April 9th at approximately eight p.m. in Plattsburgh, New York. Excuse me. I was arriving at Plattsburgh, New York, because I told him I was coming from Burlington, Vermont and I called him, and at that time we talked on the 'phone again and he said he would be right in Plattsburgh to meet me.

Q Does he mention anything about cocaine in that conversation? Was that taped?

A Yes, it was taped.

Q Do you have a tape of that conversation?

A Yes.

Q Does he say anything about cocaine?

A Yes.

Q Tell me what he says with respect to the cocaine?

A I asked him to run up the situation, what is happening. Glen says, "Look I run up two hundred short." I said, "Okay. Are you going to have enough for an ounce?" And he says, "I doubt it. There will be no problem in covering what you want." I said, "I want a half ounce for now." He says, "That is no problem." He thinks it will be six hundred fifty. I say, "There is two so I'll owe you four hundred fifty then." And Glen says, "Right, is that cool." And I said, "Yes. It's no problem. When will you be able to have the stuff?" And he says "I will get in touch with you Friday when I get home."

That was the conversation. I called from a public 'phone booth in Plattsburgh when I had arrived in Plattsburgh.

Q The substance of that, with respect to the cocaine, is that he does indicate he is going to get you a half ounce, and the price of that is six hundred fifty and the two hundred dollars is going to be deducted and you will owe him four hundred fifty?

A Correct.

Q Then did you meet him at a hotel?

A Yes. I met him later on that evening in Plattsburgh at the Howard Johnson's parking lot in Plattsburgh,

New York.

Q What took place there?

A He arrived there driving his vehicle, pulls up next to my vehicle and he immediately exits his vehicle, went into my vehicle in which a conversation ensued regarding the future half ounce transaction.

Glen Snow states that he only collected six hundred dollars and needed an additional two hundred dollars because Samuel couldn't come up with any money. And he also said he would be purchasing three quarters of an ounce of cocaine of which a half ounce I would be able to purchase for six hundred fifty dollars.

Q All right. Is this conversation taped?

A The conversation was taped. I was wired up with a transmitter, a little radio and the surveilling agent had set up the tape but he had technical problems and was unable to tape it. I don't know if it was the distance or the buildings but there is a conversation which he hears and at the same time he is trying to tape it.

Q When did you next contact either Glen or Sam Snow?

A He then left and I contacted him later on that evening, at ten thirty, calling him at his residence.

Q What was the purpose of that?

A The purpose of that was that I wanted to get in touch

with the informant.

Q When did you next get in contact with him?

A My next contact with him was on April 11th, 1975.

Q And how was this contact made? By 'phone?

A It was by telephone.

Q Who did you call?

A I telephoned Marconi's restaurant trying to get a hold of Sam or Glen Snow.

Q Who did you get in contact with?

A Sam. Samuel Snow.

Q What was that conversation about?

A It was made regards to the cocaine that I was going to purchase, that I had advanced money for.

Q This conversation is also taped?

A Yes.

Q Tell us exactly what he said? First, do you have a transcript of that tape?

A Yes.

Q Tell us exactly what he said?

A Synopsis it?

Q Yes. Tell us what he said?

A Samuel gets on the 'phone and I ask what is happening. He says, "Wait a minute, I will let you talk to Glen."

And Glen gets on the 'phone.

Q So there is no conversation with Sam with respect to it?

A No.

Q He gives the 'phone to Glen?

A That is correct.

Q What is the conversation now?

A Glen claims that he couldn't get it. He went down and nothing happened. I asked him about my money. He said that I will be getting my money back later on in the evening. I asked, "Are you going to be able to do anything in the future?" And he says he might be able to and that he went down there and that he didn't secure, that he lost a hundred dollars by commuting down and back. I asked him "Did you go down with Sam?" And he says "Yes."

I asked him "If you go down the next time are you going to be able to cop me an ounce?" He said, "Yes, but I will do everything ahead of time. I will have him get in touch with you." Meaning the informant. I told Glen I didn't want to get in touch with the informant and then Glen says, well he wants my number, my telephone number and I kind of avoided giving him the 'phone number. I asked "Are you going to be able to go down next week or the week after?" He says, "I don't know. It depends on the situation with the money." I said, "I thought you told me you had the bread?" He said "I lost a hundred". And the

conversation terminates with the agreement I will call him in a week.

Q So the substance of that conversation was that he was not able to get any cocaine?

A That is correct.

Q And he is giving the two hundred dollars back to you?

A Yes.

Q And who does he give the two hundred dollars to?

A To the informant, who in turn gives it to another agent.

Q Did the informant return the money to you?

A Yes.

Q When did you next contact either Glen or ~~Sam Snow~~?

A Let's see, April 11th was the last. Okay, I contacted him on April 18th, 1975. I telephoned him at the residence. I contacted Samuel J. Snow.

Q Tell us what was said.

A In the conversation with Samuel Snow he stated he himself and Glen Snow were travelling to New York City on or about April 24th to purchase one or two ounces of cocaine.

Q And this is by 'phone, that you are talking to Samuel Snow?

A Right.

Q Tell us again what he told you.

A He stated during the conversation that -- Samuel J. Snow stated to me that he, Samuel, and Glen Snow, would be going to New York City on or about April 24th to purchase one or two ounces of cocaine.

Q Was this conversation taped?

A It was monitored by another agent.

Q When did you next have a conversation with either Samuel or Glen Snow?

A On April 18th in Plattsburgh, New York, myself and another agent observed Glen Snow's vehicle in front of the Plattsburgh Airforce Gymnasium. Glen entered the gymnasium, returned later to his vehicle with a negro male. The red Pontiac proceeded to leave the Airforce Base. I got out of my car, assumed the guise as a hitchhiker. Glen Snow stopped his vehicle and I entered the vehicle sitting in the rear seat.

During the conversation I had with Glen Snow in his vehicle, with the other individual present, this other individual in the vehicle states to Glen Snow, "Speaking of Sammy, when is he going to bring me some coke from the city?" Glen Snow replies he would have some next week.

This individual is dropped off at the Airforce Base and I ask Glen Snow to bring me downtown. Enroute downtown Glen said to me if I wanted to buy cocaine

the deal would have to take place is Ausable Forks, New York, because he and his cousin, Sam, were known in Plattsburgh and had prior arrests. And he told me he would sell me next week one ounce for approximately one thousand dollars.

Glen Snow also stated at that time that he pays someone a hundred dollars to bring up the cocaine to Ausable Forks and he makes more money on several small deals.

The meeting then terminated.

Q When did you next contact either Glen or Sam Snow?

A That was on April 23, at ten fifty a.m. I telephoned Samuel Snow at his residence 'phone number. During this conversation which was monitored by another agent Sam Snow states to myself that he might go to New York this week end, April 26, 1975, to purchase cocaine and for me to call him back and discuss the deal with Glen Snow.

Q Did you call back?

A On April 25th, at nine fifteen I called back on the residence 'phone number, at which time I talked to Glen Snow. In the conversation I had with him he stated that his people were enroute from New York City to Ausable Forks with cocaine, of -- all of which were obligated to others. Glen then stated "Sam must have

got the info messed up" when I talked to him on April 23, and to call back next week.

Q Did you ever obtain any cocaine or any kind of controlled substance from either Glen Snow or Samuel Snow?

A No.

Q And subsequent to this did you ever have any further dealings with Glen Snow or Samuel Snow?

A After this last conversation?

Q Yes.

A Yes, I did.

Q Was the further dealing part of this same ---

A (Interrupting) Yes, it was.

Q (Continuing) Investigation?

A Yes.

Q Just tell us the gist of that.

A Then I was in contact with Samuel Snow and he said he was going down to the "city" and he wanted some money advanced. I advanced him six hundred fifty dollars.

Q Did he obtain some cocaine for you?

A No, he did not.

Q Did he return the six hundred fifty dollars?

A No, the six hundred fifty dollars was not returned.

MR. O'SULLIVAN: All right. I think that is all the questions I have. Do the grand jurors have any questions?

BY THE JURY:

Q How did you terminate with them?

A Terminate my contact with the Snows?

Q Yes.

A We executed a search warrant at the residence at a later date and arrested them.

BY MR. O'SULLIVAN:

Q Did you find any cocaine?

A We didn't find any cocaine during that search but we did find other drugs.

MR. O'SULLIVAN: I didn't ask you that.

THE WITNESS: O.K. Excuse me. Strike that.

MR. O'SULLIVAN: That is not part of this.

BY THE JURY:

Q Do you think they were suspicious? Is that why they were giving you the runaround?

A There is indication that the informant was playing two sides of the fence.

MR. O'SULLIVAN: Wait a minute now. We are getting a little bit far afield here.

BY THE JURY:

Q In these conversation that you actually had was the word "cocaine" ever used?

A I would have to look through it. I don't recall.

Q But none that you testified to?

A I don't remember using the words. I think it was just "Stuff" and so on.

Q Was there ever any cocaine found on them? Have they ever been in possession of cocaine?

A To my knowledge, no.

MR. O'SULLIVAN: Any further questions?

BY THE JURY:

Q What reason did they give for not giving the money back?

A Samuel Snow said that he had advanced the money to his contact in New York City and that his contact in the city went to get the stuff and that he got robbed. And then later on he said he was waiting to hear from his people in New York City and that they might be up in an up-State office, just before we terminated.

Q Do you know for a fact that they did go to New York City?

A On one occasion we know for a fact that they did go to New York City, yes.

BY MR. O'SULLIVAN:

Q How do we know that, or how did you know that?

A Through the informant.

Q The informant said they went to New York City?

A Yes.

BY THE JURY:

Q You did say the informant was playing both sides of the

fence.

MR. SULLIVAN: I don't know what that means. Do you want to get into that?

THE WITNESS: I would rather not. This is the same informant throughout the investigation.

BY MR. O'SULLIVAN:

Q Maybe we better clarify that informant. What does that mean when you say he is playing both sides of the fence?

A The indications are that he might be exposing me in the sense, not necessarily saying that I was an agent but that I would not be cool to deal with. Do you want to get into the reason why?

Q You better tell us when that occurred.

A When that occurred -- that transpired and we found this out later, was on surmise during the investigation because we were running another concurrent investigation in New York City.

Q Are you telling us now that this informant was telling Glen and Samuel Snow not to sell you any cocaine?

A From what I recall, and I don't recall him actually saying not to sell him any cocaine, but in reference to, if I remember my quotation right, that this guy might not be too cool to deal with. How they interpret that, I don't know.

Q You got me confused now. Didn't he set up the arrangement with the Snows for you to buy cocaine?
A Yes.
Q And then he told then not to deal with you?
A During the initial introduction I was introduced as a cousin of the informant and all right. Then the informant may have had second thoughts. I have to surmise this from certain things which we heard.
Q Well initially the arrangement is made for the informant, through them, to sell you some cocaine?
A That is correct.
Q When does this occur when he tells them not to deal with you?
A I don't know when it occurs, but from what we learned of what transpired down in New York City and after we terminated the investigation it was indicated that this might have transpired.
Q And this comes to you some time later on during this investigation?
A Yes. We still had contact. And after we executed the search warrant we still had contact with the informant, and I can't recall the exact date but it was after that that indications were to the effect that, you know ---

Q Is it your understanding that these two individuals

were never going to sell you any cocaine?

A No. Because as the investigation goes on they still negotiate and we are interested and met with Glen Snow in the vehicle and so on.

Q At that point they are still talking about negotiating?

A That's right. Right up to the end.

Q This later transaction you have with Samuel Snow in respect to the six hundred fifty dollars ---

A (Interrupting) Right.

Q (Continuing) --- at that time is there an indication that he is not going to get it?

A No, because if there was an indication that he was not going to deliver it we would have ended negotiations.

BY THE JURY:

Q At the time of the Search Warrant did they find out you were a government agent?

A Yes. At that time I was present, and that is when we terminated.

Q Were they surprised?

A Very surprised, yes.

MR. O'SULLIVAN: Any further questions?

All right. The witness is excused.

BY MR. O'SULLIVAN:

Q Oh, just a minute. Did they make any statements?

A They didn't make a statement.

Q Did you advise them of their rights?
A Yes.
Q Did they waive their rights?
A Yes. Orally. "Do you understand your rights?" "Yes." I myself and another agent transported Samuel Snow back to our office. Let me rephrase it. Upon advise of their constitutional rights both defendants acknowledged that they understood their rights and did not waive their rights.
Q So they didn't give any statements after that?
A O.K.

MR. O'SULLIVAN: Any further questions?

BY THE JURY:

Q You said they made a statement?
A Right. He did make a statement enroute to the office.

THE JUROR: But this can't be entered as evidence because they didn't waive their rights?

MR. O'SULLIVAN: It may or may not be admissible on trial.

THE JUROR: So there is no point in following it in here.

MR. O'SULLIVAN: No. Any further questions? (No response.) O.K. I guess you are excused.

(At this point the witness was excused and after discussion between Mr. O'Sullivan and the

Grand Jurors the witness was recalled and testified further as follows:)

THE FOREMAN: I am concerned about some of the things that these people may have done which were already established.

MR. O'SULLIVAN: Let me ask him.

BY MR. O'SULLIVAN:

Q You earlier testified that you had a conversation with Samuel Snow at the restaurant on April 4th; is that right?

A Yes.

Q When he told you that Glen Snow was going to go to a bank and obtain a loan of some money to purchase this cocaine.

A Correct.

Q Did the Agency ever determine whether or not Glen Snow ever did take out a bank loan?

A Yes, we did. We did determine it and got a copy of the loan through subpoenae. We subpoenaed the bank and got a copy of the loan. Also we found a copy of the agreement of the loan during the execution of the search warrant at his residence and that was marked as an exhibit.

Q What is the name of the bank where he took the loan?

A That is the National Commercial Bank of Plattsburgh.

Q What does the loan agreement say?
A National Commercial Bank and Trust Company, and that loan was made in Ausable Forks through their bank.
Q What is the date of that loan?
A 9th of April, 1975.
Q And what was the amount of the loan?
A The loan was for six hundred dollars and with interest the total ended at $663.30.
Q April 9th. Was that the same day that you gave him the two hundred dollars?
A On April ---
Q What was the date that you met him in the parking lot of Howard Johnsons?
A That was April 9th, was the date I met him.
Q And April 9th is the same day that the loan was taken out?
A That is correct.

MR. O'SULLIVAN: O.K.

BY THE JURY:

Q Was that the date he said he was going to take the loan out?
A The one who told me he was going to take a loan out was Samuel Snow. When I first met him on April 4th he said that Glen was going to take out a loan.
Q He said that he was going to do it?

A He said -- it was April 7th. I think it was two days from the date I talked to him.

Q Was this a thirty day note? What kind of a loan was it?

A In reading off here, it was eight payments at $78.76 commencing on the 15th day of May, 1975.

Q Anyone question the bank officers as to why they loaned -- why that money was borrowed? I went to know if the bank told you why they loaned the money. Sometimes they give a reason.

MR. O'SULLIVAN: O.K. You should listen now. Do you want to ask whether or not they indicated what the purpose of the loan was for?

THE JUROR: Right.

BY MR. O'SULLIVAN.

Q Was there any indication on the document that you had what the purpose of the loan was for?

A On this document there is no indication.

Q Do you know what purpose they represented to the bank that they wanted this money for?

A Yes. To purchase equipment.

Q How do you know that?

A I reviewed the application at the time of the obtaining of the note.

Q The loan application. You also have a loan application but you don't have it with you now?

A No, we don't have it with us now.

BY THE JURY:

Q Was that followed up at all, the reason they gave the bank?

A Well it will be kind of difficult to follow up the reason why he took out the loan, but I had my own ideas of the purchase of new equipment.

Q Do you know what they used forcollateral on that loan?

A No, I don't know what collateral they used on it. To my recollection it was just a personal loan.

Q What is their occupations?

A Samuel Snow is a life insurance salesman and Glen Snow is a sergeant at the Airforde Base at Plattsburgh.

BY MR. O'SULLIVAN:

Q You testified before, I believe, there was some mention that either Glen Snow or Samuel Snow did not want to go to Plattsburgh because of some arrests that they had in Plattsburgh; is that right?

A Yes. This is a conversation I had with Glen Snow when I was in his vehicle. He said he didn't want to do any transaction in Plattsburgh because he and Samuel Snow are known in the area because of prior drug arrests.

Q Do you know of any prior drug arrests in Plattsburgh with respect to either Samuel or Glen Snow?

A No, not in Plattsburgh.

Q What did he say to you?
A He said he didn't want to be seen in Plattsburgh because he was known there on prior drug arrests.
A JUROR: How does the airforce treat this problem here?
MR. O'SULLIVAN: I don't believe the Agent can answer that.
BY THE JURY:
Q You said prior drug arrests in Plattsburgh. Was there some other place he might have been arrested?
BY MR. O'SULLIVAN:
Q Do you know any knowledge, a verified knowledge, of a prior drug conviction as to either one of those two individuals?
A Verified in writing?
Q Yes.
A As of this moment?
Q Yes.
A I have not received anything in writing as to any prior drug arrests.
Q Do you have any verified knowledge?
A Yes, I do.
BY THE JURY:
Q What are they? What do you know?
MR. O'SULLIVAN: This might be a matter that

could be prejudicial to these defendants, if you believe he has a prior drug conviction. This agent is saying that he has a prior drug conviction and I am trying to verify that, that has been established as a fact that one or the other has a prior drug conviction as an admissible fact in a court of law.

THE WITNESS: I don't know about the admissability of it.

Q Do you know that to be a fact?

A To my knowledge I know it to be a fact that one of the subjects has a prior arrest and conviction.

Q What is that fact based on?

A On a request served by the office, and I have been advised that the papers have been forwarded to my Rouses Point office but I have not received them as of date.

MR. O'SULLIVAN: Any further questions?

THE FOREMAN: You don't seem to think we should know this?

MR. O'SULLIVAN: That is a question of law and should not be gone into.

(Witness excused).

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REPORTER'S CERTIFICATION

I, F. ROBERT JORDAN, Official Court Reporter for the Federal Grand Jury for the Northern District of New York, do certify the foregoing to be a true and accurate transcription of the stenggraphic notes as taken by me during the aforesaid proceedings.

F. Robert Jordan
Official Court Reporter

Albany, N.Y.
August 26, 1975.

any time when the Court could have done anything about them. They were never raised throughout the trial. Neither one of you made any requests to charge. Neither one of you made any exceptions to charge except Mr. Fisher's charge that I failed to charge beyond a reasonable doubt, which is utterly frivolous, in the form of charge used many times in the Second Circuit that I have been in the United States Court. You just weren't listening.

But none of these points were made at the appropriate time during the trial. But more than that, going to the merits, they are utterly intangible, every one of them. I deny the motion.

What is the bail status? I want to set the date for sentencing first. November 14th here in Syracuse at 10 a.m. I will get a pre-sentence report.

All right. What is the bail situation?

MR. FISHER: If I may speak on behalf of Glen, at the time that he was arraigned, I did not represent him, Your Honor, but at all times and for all proceedings, he has been on his own recognizance, and he was and he has been available, and he has always appeared when requested

to do so.

THE COURT: He is now on his own recognizance?

MR. FISHER: Yes, sir.

THE COURT: What is the Government's position?

MR. O'SULLIVAN: I think the situation is changed. Now they are convicted of a crime. The Government would ask for bail in the amount of $10,000 on each defendant.

THE COURT: Mr. Hatch?

MR. HATCH: Speaking on Samuel Snow's behalf, he is a student at the North Country Community College and he has at all times been available here in the Court, and I would respectfully request that the bail status stay the same. They are not going anywhere. They have roots in this district. They are both college students and they are both men who have always been ready, willing and able to come to any Court or any event that occurred.

THE COURT: I will deny the Government's application for $10,000 bail, and though I agree the situation is somewhat changed because of their conviction, but nonetheless, I

think it highly unlikely that they will escape. They have lived all their lives in the Adirondacks there, Ausable Forks, and their father is there. At least Glen's father is there. And it would be such a stupid thing to do, to flee, because that almost assures five years for bail jumping. Not that either of you are above stupid things. The evidence here shows you are pretty stupid guys, both of you, to get involved in this kind of a mess, dirty rotten narcotics racket.. And you do face severe penalties for it. But don't be stupid enough to add bail jumping to those charges.

I will continue them on their own recognizance pending sentence. A special condition of that being though that you behave yourselves. The slightest inkling that you are back dealing in narcotics of any kind, including marijuana, and the Court will not only revoke your recognizance, I will deny you bail pending appeal and put you in the clinker. So behave yourselves. If you get in any trouble, I will revoke it. Is that clear?

DEFENDANT GLEN SNOW: Yes.

DEFENDANT SAMUEL SNOW: Yes.

MR. FISHER: Could I thank you, Your Honor, sincerely for what you have just

permitted these boys to do. I appreciate it.

MR. HATCH: Same here, Your Honor.

CERTIFICATION

I, George T. McGloine, Official Court Reporter for the United States District Court in and for the Northern District of New York, do certify this to be a true and accurate transcript of the stenographic record of the foregoing taken at the time and place noted in the heading hereof.

George T. McGloine
Official Court Reporter
United States District Court
Northern District of New York

Albany, New York
February 11, 1976

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against- 75-CR-82

GLEN A. SNOW and SAMUEL J. SNOW,

Defendants -Appellants.

SENTENCING OF SAMUEL J. SNOW

TRANSCRIPT OF PROCEEDINGS in the above-entitled matter held in and for the United States District Court, Northern District of New York before Hon. Lloyd F. MacMahon, United States District Judge, on the 21st day of November 1975 at the Federal Building, Syracuse, New York.

APPEARANCES:

HON. JAMES M. SULLIVAN, JR.,
United States Attorney,
Northern District of New York,
BY: GEORGE LOWE,
Assistant United States Attorney.

LIVINGSTON L. HATCH, ESQ.,
Keeseville, New York
Attorney for Defendant Samuel J. Snow

THE CLERK: United States of America versus Samuel J. Snow, 75-CR-82.

MR. LOWE: Your Honor, on October 9th, 1975, following a trial by jury, this defendant was found guilty of a violation of Title 21, United States Code, Section 848. The Government moves for sentencing.

THE COURT: Mr. Hatch?

MR. HATCH: Good morning, Your Honor. I was the trial counsel in this case, and the jury has spoken and found Mr. Snow guilty as charged in the indictment. However, in trying to undo or make any rationalization for that verdict, it is up to the jury. The only thing I can say relative to this matter or the merits, if I can say anything, is the fact that Mr. Snow, any involvement that he may or may not have been involved in was absolute stupidity on his part to even have associated with any transaction, if in fact he were. As he has maintained, he wasn't. However, Mr. Snow, I have gotten to know him and his family and I have known them because I have lived in the area all my life as a boy. I know all his uncles and stuff, and there is a lot of things I can say. But all I can ask Your Honor is that you be merciful. He is in

school now and his marks are level and he is now on the course where he appears to, to my satisfaction at least, in my conversations with people, that he is making steps toward developing some academic background that can give him a future. He needs a chance, an opportunity. Now, unfortunately, in his record he has a previous conviction which is in Taiwan. And not to go over that conviction, the fact is that there is presently being run on T.V., a thing about the Vietnam victim. The people have gotten themselves involved in drugs in Vietnam. Mr. Snow did go to Vietnam. He didn't run to Canada and he didn't wear long hair, but he went to Vietnam and did his job. He got involved in something that he shouldn't. Now he is home and he got involved in something which, you know, is a situation which should never had occurred.

I will say this on behalf of him, that I would ask the Court to be merciful, please.

THE COURT: Mr. Snow, what do you have to say for yourself before the Court pronounces sentence?

THE DEFENDANT: I think I am trying to straighten my life out. I hope you give me a chance to do it.

THE COURT: Well, you were involved in this dope business deliberately. You knew what you were doing. You got on the witness stand and you lied, you lied through your teeth. I heard you. There's not much going for you, not much going for you at all. You keep it up and you are going to be like some of these people who preceded you and you are going to go away for a nice long time. You are going to get into a revolving door in and out of jail all your life. You are at a crossroads in your life. That is where one of them goes. And you are mightly lucky that that is not where it goes this morning. I am going to give you a chance. I am giving you a chance because you are only 23, because you did serve your country in Vietnam, and like a lot of other kids, you are mixed up. But I think there is a chance, a chance for you to make something of your life, not to be a convict the rest of your life or somebody running from it, or not to wind up worse, shot in the gutter because you are mixed up in the dope traffic. You are just a small-time little fish. You are the kind of guy that goes to New York and winds up shot and put in the back of a trunk. That is what can happen to you if you keep going down the other road. It is the best that can happen to you.

I am going to give you a chance, but I am warning you, I am going to put you on probation, but if you make one misstep, I am going to throw the book at you. Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And if you think I am fooling, just take a look at me. I am not fooling.

Appearing that the defendant is 23 years of age, the Court finds that he is eligible for treatment under the Federal Youth Corrections Act as extended by Title 18, United States Code, Section 4209.

Accordingly, it is adjudged that the defendant is a young adult offender and he is sentenced under the provisions of Title 18, United States Code, Section 5010A as extended by Title 18, United States Code, Section 4209. Imposition of sentence is suspended and the defendant is placed on probation for a period of three years subject to the provisions of the standing probation order of this Court.

It is my duty to warn you that if you wish to appeal this conviction, you have the right to do so, and the way you do that is by filing a Notice of Appeal with the clerk of this Court

within 10 days. If you have no funds to hire a lawyer, the Court will appoint one free of charge to represent you on appeal. Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: I want to also advise you that under this kind of sentence, you can wipe off this criminal conviction by behaving. And if you have got a nickel's worth of brains, that is what you will do. You will behave, you will continue your education, you will make something of yourself and you will be a useful citizen to society and not some dime-a-dozen hood. Is that clear?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Good luck to you now. Straighten out.

THE DEFENDANT: Thank you.

MR. HATCH: Thank you very much.

CERTIFICATION

I, George T. McGloine, Official Court Reporter for the United States District Court in and for the Northern District of New York, do certify this to be a true and accurate transcript of the stenographic record of the foregoing taken at the time and place noted in the heading hereof.

George T. McGloine
Official Court Reporter
United States District Court
Northern District of New York

Albany, New York

February 12, 1976

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against- 75-CR-82

GLEN A. SNOW and SAMUEL J. SNOW,

Defendants-Appellants.

SENTENCING OF GLEN A. SNOW

TRANSCRIPT OF PROCEEDINGS in the above-entitled matter held in and for the United States District Court, Northern District of New York before Hon. Lloyd F. MacMahon, United States District Judge, on the 21st day of November 1975 at the Federal Building, Syracuse, New York.

APPEARANCES:

HON. JAMES M. SULLIVAN, JR.,
United States Attorney,
Northern District of New York,
BY: GEORGE LOWE,
Assistant United States Attorney.

J. RAYMOND FISHER, ESQ.,
Albany, New York,
Attorney for Defendant Glen A. Snow,
BY: THOMAS F. NEIDL, of Counsel.

THE CLERK: United States of America versus Glen A. Snow, 75-CR-82.

MR. LOWE: Your Honor, on October 9th, 1975 this defendant was convicted following a jury trial for violation Title 21, United States Code, Section 846. The Government moves for sentencing at this time.

THE COURT: Mr. Neidl, do you have anything to say in behalf of the defendant?

MR. NEIDL: Your Honor, I don't want to take up a lot of the Court's time. A lot of information, I believe, is in the Probation Report. But I would like to submit to the Court, the defendant is only 25 years of age, presently enrolled in Paul Smith College taking a course in tourism, and he tells me he is doing well in it. I would also like to submit, Your Honor, respectfully, the defendant has absolutely no prior criminal record, Your Honor, and to my belief, he has only been arrested on one occasion for disorderly conduct a few years ago. That is the only brushes he has had with the law up to this time. And I would respectfully ask Your Honor to consider not imposing a sentence of imprisonment in this case. Thank you, Judge.

THE COURT: Do you have anything to say for yourself, Mr. Snow, before the Court pronounces sentence?

THE DEFENDANT: No, Your Honor.

THE COURT: I can't hear you.

THE DEFENDANT: No, I do not.

THE COURT: You were certainly the ringleader in this little duo here in narcotics. And like your co-defendant, you brazenly took the witness stand, took an oath to tell the truth and lied in your teeth. You are a liar and a perjurer and a bum. You have been lucky you haven't been caught. You have gotten away with it. But that is all over now. From now on you are going to have to toe the mark. The Court is mindful of your age, which is 25, but the fact that you haven't been caught -- you will notice I carefully avoided saying that you haven't committed any crimes. It's plain to me that you have. You don't get into narcotics without having committed a lot of crimes.

If I let you go I'm taking a big chance, a real big chance that you will go right back into it because you are a smart aleck and you think you can get away with it. You are the kind of punk that would go to New York on one of these deals

and they would chew you up.

I am going to give you a chance. I think there may be just that much good in you that maybe you can straighten out. You come from a good family and you are a disgrace to them. I am going to give you a chance, but if you flub it, you are going to take a long, long ride. Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: I don't have much sympathy for you at all, not at all. I don't like your perjury, I don't like your dope dealings. I am just giving you one last chance. It is more than you deserve.

It, appearing that the defendant is 25 years of age, the Court finds that he is eligible for treatment under the Federal Youth Corrections Act as extended by Title 18, United States Code, Section 4209. Accordingly, it is adjudged that the defendant is a young adult offender and he is sentenced under the provisions of Title 18, United States Code, Section 5010 and as extended by Title 18, United States Code, Section 4209. Imposition of sentence is suspended and the defendant is placed on probation for a period of three years

subject to the provisions of the standing Probation Order of this Court.

It is my duty to warn you that you have a right to appeal this conviction. If you wish to appeal it, you must file a Notice of Appeal with the Clerk of the Court within 10 days. If you have no funds to hire a lawyer, the Court will appoint one free of charge.

I want also to advise you that under the type of sentence which this Court has imposed upon you, if you behave yourself, you can have this conviction wiped clean from your record just as though it never happened. But if you don't, and you violate your probation, I will unhesitatingly send you away to prison for the maximum possible time that I can. Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And you realize that is 15 years, do you realize that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: You better toe the mark because I am not going to put up with it. I am not some local Plattsburgh judge who is going to give you a break. I am a tough guy, and don't force me to do it, because if you do, I will do it

unhesitatingly. Good luck to you.

MR. NEIDL: Your Honor, on behalf of the defendant, Mr. Fisher and myself, I would like to thank you and again apologize for being late here.

THE COURT: That's all right.

CERTIFICATION

I, George T. McGloine, Official Court Reporter for the United States District Court in and for the Northern District of New York, do certify this to be a true and accurate transcript of the stenographic record of the foregoing taken at the time and place noted in the h.ading hereof.

George T. McGloine
Official Court Reporter
United States District Court
Northern District of New York

Albany, New York

February 12, 1976

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UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

SAMUEL SNOW,

Appellant.

AFFIDAVIT OF SERVICE BY MAIL

Docket No. 75-CR-82

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

EVELYN A. HATCH, being duly sworn, deposes and says: that deponent is not a party to the action, is over 18 years of age and resides at Willsboro, New York. That on the 2nd day of April, 1976, deponent served the within record and brief on appeal upon Thomas P. O'Sullivan, Assistant U.S. Attorney, at U.S. Post Office Building, Albany, New York, the address designated by said attorney for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper in a post office under the exclusive care and custody of the United States post office department within the State of New York.

Evelyn A. Hatch

EVELYN A. HATCH

Sworn to before me this
2 day of April, 1976

Florence E. Hathaway

Notary Public

FLORENCE E. HATHAWAY
Notary Public in the State of New York
No. 16-6804117
Qualified in Essex County
My Commission Expires March 30, 19 78